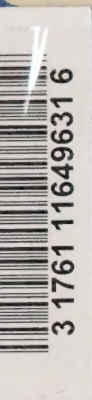


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Ontario. Royal Commission inquiry into
labour disputes.

Hearings. V. 26. April 1969.



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ROYAL COMMISSION
INQUIRY INTO LABOUR DISPUTES

3632

HEARINGS HELD AT
TORONTO

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NETHERCUT & YOUNG LIMITED
48 YORK STREET
TORONTO 1, ONTARIO
TELEPHONE 363-3111



Nethercut & Young

Toronto, Ontario

IN THE MATTER OF The Public
Inquiries Act, R.S.O. 1960,
Ch. 323

- and -

IN THE MATTER OF an Inquiry
Into Labour Disputes

BEFORE: The Honourable Ivan C. Rand,
Commissioner, at 123 Edward
Street, Toronto, Ontario, on
Friday, April 21st, 1967.

E. Marshall Pollock Counsel to the Commission

APPEARANCES:

Mr. J.D. Campbell, President)	Canadian Electrical Manufacturers Association
Mr. R. Noonan, Past President & Director)	
Mr. T. Edmondson, Past President & Director)	
Mr. K.H. Rapsey, Vice- President & Director)	
Mr. E.V. Rippingille, Jr. Director)	
Mr. J.G. Little, Former Director)	
Mr. J.W. Henley, Member)	
Mr. R.G. Flood, Member)	
Mr. R.L. Hart, Member)	
Mr. F.R. Hume, Q.C. General Counsel)	
Mr. J.W. Healy, Q.C. Special Counsel)	

APPEARANCES: (continued)

Mr. Thomas Edwards,)	The Oshawa and District
1st Vice-President)	
)	Labour Council
Mr. Douglas Sutton)	
Local 222 U.A.W.)	
)	
Mr. Joseph Grills,)	
Executive Member)	
Mr. F.G. Samis		
Mr. McGuire)	The Guild Workers Union



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3046

Toronto, Ontario

April 21st, 1967

---On commencing at 10:00 a.m.

MR. POLLOCK: The Canadian
Electrical Manufacturers Association, Mr. John
D. Campbell, President. I see that Mr. J.W.
Healy is going to be the spokesman. I see
quite an array of individuals here and I wonder
if you would care to lead off and whether you
are going to introduce these people or not.

MR. CAMPBELL: Perhaps, Mr.
Commissioner, if I may be permitted to say a
word to you and Mr. Pollock.

First of all, as President of
the Association, we appreciate the opportunity
that we are accorded here in presenting our
brief and, while we are an association of
national manufacturers with national scope
across the country, actually we represent
some 151 companies. 114 of these companies,
sir, have plants in Ontario and of the 127
thousand employees that we have, some 83 thousand,
or two-third of them, are here in Ontario and
this, I think, explains the interest that
we have in this Hearing and why we are here
today.

I would like, if I may have
your permission, sir, to introduce the people
who are here with us. First of all, there is

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1 Mr. F.G. Samis, the General Manager of our
2 Association. There is Mr. F.R. Hume, Q.C.,
3 who is our general counsel for the Association.
4 Mr R. Noonan, who is the Past President and
5 Director of the Association and President of
6 Pioneer Electric; Mr. Keith Rapsey, Vice-
7 President of the Association and Vice-President
8 of Allen-Bradley of Canada Limited. Mr. Ted
9 Rippingille is Director of C.E.M.A., and
10 President of Frigidaire Products of Canada.
11 Mr. Tom Edmondson, Director of C.E.M.A., and
12 President of Ferranti-Packard Electric Limited;
13 Mr. J.G. Little, a former Director of C.E.M.A.,
14 and Executive Vice-President, Northern Electric;
15 Mr. R.G. Flood, a Member of the Industrial
16 Relations Committee of C.E.M.A., and Manager
17 of Union Relations at Canadian General Electric;
18 and Mr. R.L. Hart, also a Member of the
19 Industrial Relations Committee and Manager of
20 Industrial Relations, Canada Wire and Cable
21 Co. Limited; and Mr. J.W. Henley, Member of
22 the Industrial Relations Committee and Vice-
23 President of Personnel, Canadian Westinghouse
24 Co. Ltd.

25 Now the Association, sir, has
26 retained special counsel to assist in the
27 preparation of our submission and it is Mr.
28 J.W. Healy, Q.C., who will be our principal
29 spokesman today. Thank you, sir.

30 MR. POLLOCK: Mr. Healy, I can



1 tell you that both the Commissioner and I have
2 read your brief and to avoid repeating some
3 of the matters that were reported to us by
4 The Canadian Manufacturers Association the
5 other day, you have in large measure, endorsed
6 some of their submissions but you have made
7 some other interesting submissions of your
8 own and we would like you to feel free to
9 present this in any manner you see best.

10 MR. HEALY: Thank you, Mr.
11 Pollock. Mr. Commissioner, we are before
12 you, of course, because we, like many other
13 bodies and individuals who have appeared
14 before you in the past weeks, are vitally
15 interested in your Inquiry into Labour
16 Disputes.

17 It would seem clear that the
18 prime, motivating influence in establishing
19 this Royal Commission was the clamour raised
20 in 1966 when unions and federations of unions
21 concerning certain well publicized labour
22 disputes, particularly involving measures
23 taken by employers to reserve their rights
24 and to enforce the law, and to preserve the
25 peace and enforce the law. If it were not
26 for the disregard of the rights of others
27 the flouting of law and the defiance of the
28 courts, all of which this Commission is by
29 law, intimately aware, we would not be here
30 before you.



1 So we are here to assert, Mr.
2 Commissioner, that employers have rights as
3 well as obligations and the preservation of
4 these rights is a matter of great public
5 interest.

6 Our economy depends upon the
7 successful operation of our various business
8 enterprises. The obligation of employers
9 is to balance the claims of employees and
10 shareholders and the public. Now, as we
11 have stated, and Mr. Pollock has stated, we
12 had adopted the submission made by the Canadian
13 Manufacturers Association and I know that the
14 Commission has read that brief and examined
15 counsel and representatives of that Association
16 on its contents. I had the privilege of
17 listening to the proceedings for the better
18 part of the first day of those hearings. I
19 have no doubt that this Commission is satisfied
20 that the C.M.A. brief has had satisfactory
21 airing and we propose today - and this is
22 in compliance with what Mr. Pollock has just
23 said - simply to refer to two or three topics
24 in our submission which we feel may be of
25 most interest to you, sir.

26 If it pleases you, Mr. Commissioner,
27 the members of the group before you today are also
28 available and anxious to express their views
29 to you on any topic that you should wish to
30 discuss with them.



1 Now, may I first of all, turn
2 to page 5 of our submission, Mr. Commissioner,
3 and beginning with the first full paragraph
4 on that page:

5 "In some cases involving strike
6 action it is not feasible for
7 the employer to consider operating
8 his business during the strike.
9 This is particularly so where
10 the strike is strongly supported
11 by the employees, or in an
12 industry where it is not
13 possible to operate at all with
14 fewer than the total complement
15 of workers, or where suitable
16 replacements are not available."

17 Now these are all economic factors which effect
18 whether a strike could occur even or when
19 it might end.

20 "In other cases, however, there
21 may be many employees who wish
22 to work rather than strike;
23 there may be compelling
24 financial reasons leaving the
25 employer with no alternatives
26 but to attempt to operate or
27 go bankrupt; there may be
28 subversive persons involved who
29 intend to prolong the strike
30 indefinitely without regard to



1 the welfare of the employees.
2 Economic forces which are
3 generated by a strike cannot have
4 their natural play unless the
5 employer is in a position to
6 continue his business, in whole
7 or in part, if he chooses and
8 is able to do so.

9 Nor, for the same reason
10 should a striking employee
11 be denied the right to secure
12 other employment during a
13 strike.

14 In our submission it would
15 be no solution to suggest that
16 the proper balance could be
17 achieved by a combination of
18 forcing plant closure ..."

19 And I might add - or prohibiting the employee from
20 hire during the strike - which would mean
21 personal plant closure ---

22 "...and prohibiting other
23 employment to strikers.

24 Apart from the difficulties
25 of enforcement ..."

26 And if I might stop there, Mr. Commissioner,
27 I know you have discussed the question of
28 enforcement earlier this week and I do not
29 propose to really add anything to what has
30 already been said at this point, except to



1 suggest that I do submit to you that enforcement
2 would be extremely difficult - if not impossible
3 in many cases - to really guarantee that an
4 employee on strike would be not earning income
5 from his labour in somewhere or other
6 during a strike, in another jurisdiction, on
7 his own property working casually, or what
8 have you.

9 But I would like to suggest
10 this to you, Mr. Commissioner: I believe
11 you stated, and I am sure this is something
12 which you would agree with in any event,
13 that you cannot make a man work. I submit
14 to you that it is equally true that you
15 cannot make a man refrain from taking work.
16 I submit that a law prohibiting a man from
17 taking work under any circumstances, is not
18 really - it is difficult to conceive in a
19 democracy. So I submit that as a practical
20 matter that part that has been discussed
21 is not workable.

22 THE COMMISSIONER: Nobody
23 suggests that you can prevent him from working
24 at all, but if he does, he may incur penalties.
25 He may incur, for instance, the loss of
26 employee relations; all these rules of
27 counter-action and action of some sort and
28 affirmatively attempting to compel something.

29 MR. HEALY: Well, he could
30 be discouraged, perhaps, during the strike, but

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1 I submit it would be the slightest sanctions
2 that would be involved so, therefore, it would
3 be unrealistic because I suggest that strikes
4 will still be settled by bringing back
5 employees.

6 THE COMMISSIONER: But what
7 you are dealing with in generality, is really
8 limited to a very narrow section of industry,
9 and the question is: How has it worked out
10 in the past? How many industries have been
11 able to continue after a strike by continuing
12 to employ outside? How many have had to
13 shut up because of the absence of labour, and
14 you have on one end of the scale industry
15 that necessarily shuts down the moment there
16 is a strike, a legal strike. So you come down
17 to a question that is limited in the field of
18 industry and what I would like to know, if you
19 can help us out on such a thing, is what has
20 the experience of the past done in relation
21 to strikes of relatively smaller industries,
22 and their ability where skill is required to
23 continue to work, or where semi-skill is
24 required to continue to work, or when ordinary
25 labour is looked for when they have been able
26 to avail themselves of that extra labour and,
27 in effect, destroy the strike.

28 Now, that is simply information
29 that is relevant to the formation of judgment
30 and I don't want to think for a moment that



1 there is any concluded opinion on any of these
2 subjects.

3 MR. HEALY: I appreciate that
4 we are discussing propositions, sir. You
5 mentioned the continuing to operate during
6 the strike ruining the strike. Now I haven't
7 got the statistics or the specific examples
8 but there are cases where plants have operated
9 partially or even almost wholly during a
10 strike and the settlement was concluded, that
11 the union would boast as a victory or, at least,
12 not as a loss. So it doesn't follow necessarily
13 that the employment of people during a strike
14 or the partial or total operation of that
15 plant during a strike means that you are
16 breaking the strike.

17 THE COMMISSIONER: No, but I
18 am asking for information as to what extent
19 it has affected it.

20 MR. HEALY: I think to a very
21 considerable extent in Ontario in the last 20
22 years with which you are familiar, sir. The
23 fact that employers could hire during a strike
24 and did hire to some degree during a strike,
25 I think that has been one of the very important
26 economic factors in determining the settlement
27 of the strike, and I think it follows that
28 many strikes have been avoided because of
29 the knowledge that this could be done. I
30 could imagine the case where an employer was



1 paying, let's say very good wages, in a community,
2 higher than other employers in the community.
3 Now, if it were known that he could not hire
4 those lower paid employees in the community
5 during the strike, then the union could risk
6 striking, even though he is paying the highest
7 wages in the community and perhaps paying the
8 very top wages he can afford to pay within
9 his competitive position. And this can
10 happen.

11 THE COMMISSIONER: Have you
12 ever had an example of that?

13 MR. HEALY: I have had many
14 examples, Mr. Commissioner, through the years,
15 in that kind of thing. I can't give you a
16 case in point at the moment.

17 MR. POLLOCK: Of course, in
18 many cases you would have negative examples
19 where strikes don't occur.

20 MR. HEALY: In those cases
21 you are only speculating, that is quite true.

22 THE COMMISSIONER: Well is
23 it your view that nothing can be done in relation
24 to those matters which have caused a considerable
25 turmoil socially in the province?

26 MR. HEALY: Yes, I believe
27 there is, Mr. Commissioner. I believe it
28 has been put before you and I submit that
29 it is not a full solution, but if unions
30 were made responsible and civil law and the



C/m

1 Rights of Labour Act were amended to provide
2 that they could be sued or conversely that
3 they might be incorporated, this would make
4 them more responsible and that would be the
5 first step.

6 Secondly, police enforcement,
7 which is already quite good in some municipalities
8 where great care has been taken to explain
9 the rights of people and the obligations of
10 people, that improvement along those lines
11 would cut down enormously, the problem.

12 I think that those are the
13 two major areas in which improvement could
14 be made.

15 THE COMMISSIONER: About
16 100 years ago, exactly the same argument was
17 made in England. Here are our rights,
18 admittedly, legal rights, based upon the
19 conception of individual freedom and property
20 and if you will read some of the judgments -
21 I have in mind an outstanding judge in England,
22 who stated that precisely and there is no
23 logical objection to it. Things have changed.
24 Why? What has modified that rigid adherence
25 which, on the part of industry, was called les affaires
26 and on the part of employees, which was
27 respecting the law, the criminal law and the
28 civil law, against wrongs.

29 MR. HEALY: Well, of course,
30 what has happened in the last year or the last

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1 two years certainly has been blown up out of
2 all proportion, in my submission. There are
3 still a great many more settlements that are
4 satisfactory to both sides than there are
5 strikes and it is still true that the great
6 majority of strikes are conducted peacefully.

7 THE COMMISSIONER: Yes, I would
8 agree with that.

9 MR. HEALY: And when we
10 have the odd explosion of lawlessness, I
11 suggest we shouldn't throw the baby out with
12 the bath water, if I may suggest it.

13 THE COMMISSIONER: But you
14 are saying the same thing about criminal law.
15 The vast majority of citizens are law-abiding
16 and yet we see now that criminology has
17 become a topic of the highest interest in
18 all centres of learning. Why? It is a
19 very small minority who are in the government
20 of criminal action, and yet we are taking
21 such an interest. Why?

22 MR. HEALY: Well, I submit,
23 for the very same reason that this Royal
24 Commission is established. Because it is
25 a terribly important matter of great interest.

26 THE COMMISSIONER: I agree
27 that it is important and I don't think we
28 ought to minimize that importance by referring
29 to the majority of people who are able to
30 carry their conduct rationally.



1 MR. HEALY: That is quite
2 true, Mr. Commissioner, but you were raising
3 the question of why do you say relatively
4 the same general framework of legislation
5 and common law should apply because this
6 was said 100 years ago. I submit to you
7 that it has been worked and it still is
8 working and there isn't a crisis and the
9 unions that have come before you and have
10 talked about the perniciousness of injunctions
11 and so on, are not speaking reality. But
12 this is a relatively small problem.

13 THE COMMISSIONER: What do
14 you think the result of all these efforts
15 at education is actually to be in the way
16 of the individual assertion of those claims
17 that we have listened to from a great many
18 people. What is the effect of education
19 for which we pay out so many hundreds of
20 millions of dollars? Is it subordination,
21 subservience?

22 MR. HEALY: No, sir.

23 THE COMMISSIONER: Then how
24 do you square that with people who come in
25 here by the dozen and demand what you
26 look upon as a normal and unexceptional
27 right? It is an unfair hinderance to
28 their individuality or individual action.

29 MR. HEALY: I think you have
30 to accommodate both points of view, I quite



1 appreciate that, but there are certain fundamental
2 principals that I submit we should adhere
3 to in a free, democratic society. I don't
4 think a democratic society in a dictatorship
5 you can do anything and we can't do it.
6 I don't think in a democratic society you
7 can tell a person he cannot do this or can
8 do that, except in a very limited sense. In
9 other words, I am submitting to you, sir, that
10 it is basic to our economic society that
11 an employer has the right to employ people
12 if he can get them. I think it is very
13 basic and that if you restrict that right even
14 for the purpose of curing what is perhaps
15 an evil, you are giving up something that
16 converts us into ----

17 THE COMMISSIONER: Yes, but
18 you admit - and nobody can deny it - that that
19 so-called right is exceeded every time when
20 you have large enough men who hold together
21 and stop working. By the very nature of the
22 society that has been created in the last 100
23 years, you are unable to get any men. Even
24 in Australia they won't work for you because
25 of loyalty to labour organizations generally,
26 or, in other cases, because they are not
27 available.

28 MR. HEALY: I am just suggesting
29 to you that it can't be worked according to
30 the laws of economics.



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1 THE COMMISSIONER: But don't
2 you think there is something more than economics
3 in the centre of evolution today?

4 MR. HEALY: I think superimposed
5 on this economic basis, which is the only
6 thing that the strikes are being avoided, is
7 social advancement, more socially advanced
8 thinking by employers and by government
9 interfering, if you will.

10 THE COMMISSIONER: I wouldn't
11 talk too much about government interfering
12 because government is getting knee-deep in
13 all activities of industrialism today.

14 MR. HEALY: That is very
15 true, sir.

16 THE COMMISSIONER: So that
17 I think I have a great respect for the opinions
18 of Professor Galbraith, and he says it is
19 nonsense to talk about that private enterprise
20 even in the United States because he says
21 it is obviously a mixed affair. And what does
22 that lead to? I just want to state the
23 position and I am most anxious to hear what
24 you have to say. Workmen and management,
25 capital and labour - whatever you may call it -
26 and the public are bound together in a society
27 whose standards today necessitate a greater
28 degree of unity of action between all three
29 parties, all three groups, all three interests.
30 It is becoming dependent upon the maintenance

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1 of certain functions, and those functions
2 determine in the apparatus, the level of
3 civilized action which we accept now as
4 almost a necessary condition of our evolving
5 society. Now, if you accept that you will
6 find confirmation in the Labour Act here. It
7 was only in 1946 or 47 that the legislature
8 said to management - and I don't want you to
9 think that I don't appreciate the absolute
10 necessity of management direction and leadership
11 as essential and you must accept that as a
12 basic idea. But it said to management "You must
13 bargain in good faith". Now that, it seems
14 to me, is an extraordinary step to take and
15 yet it was found to be necessary by reason of
16 the changing conditions of our society, and
17 I think probably all of these discussions we
18 are having, have as a remote objective, the
19 creation of the society which we envisage
20 for this country.

21 Now, I think there are some
22 things that must be preserved. In the first
23 place, the initiative of men must be preserved.
24 That has resulted in North America in the
25 tremendous advance of invention and technology,
26 and that has been aided by science. As
27 somebody said, "We are the beneficiaries of
28 the whole lover of knowledge, enabling us to
29 deal with our environment". It comes from
30 the past and no present person can make claim

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1 to more than having understood that at least,
2 and done something to preserve it and it is
3 only a very few people whose ideas raise
4 that level in any generation. So, all I mean
5 is that those are the changes that lie
6 behind the mandatory power in industry today
7 to negotiate.

8 There is another one that is
9 of importance, that notwithstanding a strike
10 a cessation of work which may make you idle,
11 the employee maintains his membership in the
12 employment. He does not cease to be an
13 employee by reason of that united cessation.

14 MR. HEALY: On that point that
15 he does not cease to be an employee, this would
16 be one of the sanctions, I take it, that you
17 would have in mind, Mr. Commissioner, if he
18 took out employment during the strike or if
19 he took other employment during the strike.

20 THE COMMISSIONER: Well, that
21 is one of the things that legislation has
22 in mind.

23 MR. HEALY: I suggest it might
24 not be a real sanction at all because the
25 employer wouldn't be concerned with whether
26 he took other employment during the strike,
27 probably, and in any event, it would be part
28 of the settlement of the strike, that all
29 people who went on strike would be reinstated
30 and so, therefore, he would lose nothing by

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1 taking other employment. It would not be
2 a realistic sanction.

3 THE COMMISSIONER: All I
4 am emphasizing is the multiplication of
5 the employer's right to say "If you stay
6 off that way, you are dismissed". Now that
7 hasn't been removed and the question is,
8 what does it indicate in the way of legislative
9 direction?

10 MR. HEALY: You get into
11 such problems as this, for example: Supposing
12 an employee on strike did quit the employment
13 of the company and took other employment
14 and asked for his unemployment insurance book
15 and went through the steps that one takes
16 in terminating employment. Would the company
17 then say, "Well, now we can hire someone
18 to replace him even though he is someone on
19 strike"?

20 MR. POLLOCK: That might be
21 a reasonable following. It might be an
22 encouragement for the employees not to leave
23 the employment by going and seeking other
24 employment because I think what you are
25 foreseeing is that 90 percent of the work force
26 going and getting new jobs and having 10 per
27 cent of the people remain on strike and the
28 plant closed. I think perhaps as people
29 leave and get another job, they are no longer
30 employees on strike and perhaps the employer

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1 can replace those as they leave. That might
2 be a reasonable alternative in the mechanics.

3 MR. HEALY: Another thing
4 that occurs as we are discussing it - unless
5 it is something the unions might be afraid of -
6 is the growth that applies to lock-outs as
7 well as strikes.

8 MR. POLLOCK: Do we ever have
9 lock-outs anymore?

10 MR. HEALY: Well, this might
11 encourage them. You could have an employer
12 in a very strong financial position and he
13 is trying to make a point in knowing his
14 employees couldn't take alternate employment,
15 it might encourage lock-outs.

16 THE COMMISSIONER: I think
17 there are two or three other ideas that ought
18 to be mentioned because they underline any
19 suggestion of a change of that nature. In
20 the first place, there would be no absoluteness
21 there at all, because what you can have -
22 and I have already introduced it in the
23 discussions - a tribunal which would secure
24 this; that neither side could be destroyed
25 by the other because of discretionary
26 multiplications of any of these provisions.
27 You may have a weak manufacturer and a strong
28 union. You have a weak union and a strong
29 manufacturer. Now, what you have spoken about
30 and I mean you, not personally, but generally,

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1 is the desirability of maintaining some approach
2 to equality of economic power. It seems to
3 me if you have that that there is an internal
4 tendency to come to an agreement and it is
5 one of the factors that is taken into account.
6 You can have a tribunal - and I agree that
7 it has to be of first-class men who appreciate
8 the joint actions that are necessary to
9 the social accommodation - but I would hate
10 to think we didn't have that kind of man
11 in Canada, because they do have men of that
12 calibre elsewhere, by which, for instance,
13 you have a very desirable industry and it
14 is weak in capital and there is no reason at
15 all if that union is strong, why it could
16 not obtain relief and to enable it to take
17 in as many men as it could get. So you
18 have that flexibility and discretion.

19 MR. HEALY: Well, I think
20 we come back, Mr. Commissioner, to what you
21 were saying a few moments ago about Australia
22 and where they strike.

23 THE COMMISSIONER: I wasn't
24 thinking particularly of Australia.

25 MR. HEALY: No, but I think
26 that this is the difficulty. If you could
27 find such a person as you are suggesting, I
28 suggest that I think it is too big a job for
29 anybody - or almost anybody I can visualize -
30 but if you could find such a person and he

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1 did decide that some employer was being
2 victimized and he was weak, and so on, and
3 he was going to let him operate, he would
4 run into picket lines and violence.

5 THE COMMISSIONER: No, he
6 wouldn't, under the scheme proposed. There
7 would be no picket line.

8 MR. HEALY: But I submit
9 that because of the human nature being as
10 it is in a situation where men do object
11 to executive decision, that they would
12 refuse to work and they would refuse to
13 let other people work in that situation.

14 THE COMMISSIONER: Then you
15 have no faith in our ability to control the
16 insignificant units of human beings. Because
17 if you start with an absolute prohibition of
18 any form of picketing, there is something
19 that becomes law which, I would say, would
20 be respected by the vast majority of people,
21 and also enforced in a way that has none
22 of these restraining influences that an
23 ordinary picket line today, exhibiting
24 objectionable - you might say - intimidations,
25 has because of the fact that police forces
26 generally, in small communities, are part
27 of that community and the strikers are
28 their friends and it is most difficult.
29 That fact is recognized in the United States
30 right in the very statute that provides for

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1 many of these means of regulating strikes.

2 MR. HEALY: Unfortunately,
3 and I know this has been put before you
4 before, Mr. Commissioner, the removal of the
5 physical picket line itself, in my submission,
6 probably would not make a great deal of
7 difference. Even now the acts of violence
8 and the acts of arson and intimidation are
9 frequently not on the picket line at all.
10 They are on the road and on the highway and
11 dropping bricks from overpasses onto cabs
12 of trucks and at homes, and so on. All
13 these things that may turn people into savages
14 with the passions they feel, they will go on.

15 THE COMMISSIONER: You can
16 take that view and make that expression, but
17 I think that if you give general satisfaction
18 to a large mass or group that is intimately
19 associated, you qualify these expressions
20 as you might call them, the violence and the
21 generation of steam power resulting in
22 outburst of that sort, I think as a whole -
23 and don't you think - that the working forces
24 of Canada, except you might say in the periphery,
25 are pretty good citizens?

26 MR. HEALY: I do, very definitely,
27 Mr. Commissioner, and I come back to the
28 statement that I made earlier, that it is a
29 very small minority and I realize, because it
30 is a small minority, that that doesn't mean there

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1 isn't any problem as you said, but I say that
2 this only erupts in isolated instances and
3 in the last two years - perhaps for ecomic
4 reasons primarily - it has erupted more and
5 there has been more difficulty.

6 THE COMMISSIONER: I was reading
7 this morning in the paper about the establishment
8 in a small degree of the Cosa Nostra. Why
9 are we being concerned about it? Because
10 today it takes a smaller unit to create and
11 generate a very large influence on certain
12 groups. So you have a small group of
13 employees who have tendencies that are
14 destructive and if you leave them ground on
15 which to proliferate you are creating a
16 similar gendre in the industrial world.

17 MR. HEALY: On the other hand,
18 now, Mr. Commissioner, you don't amend the
19 criminal code because of the problems in
20 criminology.

21 THE COMMISSIONER: No, but
22 you strengthen the police force.

23 MR. HEALY: That is all I
24 am suggesting.

25 THE COMMISSIONER: But don't
26 you think it is better on the other hand,
27 and we are all agreed in the case of Cosa Nostra,
28 that we want a society in which we may
29 sleep without being murdered in our sleep.
30 And in the same way, we want - and I agree it must



1 be reasonable satisfaction in a working force.

2 MR. HEALY: The difficulties
3 that have been created and have come to you
4 have been created because of lack of enforcement
5 of the laws, and I see maybe too obvious a
6 solution is to enforce the law, then you
7 don't have this difficulty or you reduce the
8 difficulty and make the unions more responsible.
9 They have become so powerful and so rich and
10 I submit they are part of our society and
11 we accept them and we value them.

12 THE COMMISSIONER: I agree and
13 I don't think I can challenge that, and let
14 us assume that a union is held prima facie
15 responsible for anything that its men does -
16 let us assume that. How will that improve
17 the situation if you maintained the existing
18 state of things?

19 MR. HEALY: Because then,
20 they being responsible people, would violate
21 the rights of others with impunity.

22 THE COMMISSIONER: Don't you
23 think so?

24 MR. HEALY: No, sir, as a
25 matter of fact.

26 THE COMMISSIONER: I wouldn't
27 be too sure about that.

28 MR. HEALY: As a matter of
29 fact we have found in those cases where
30 grievances have been filed for illegal strikes



1 under collective agreements and damages have
2 been obtained, that it has a very, very
3 deterring effect.

4 THE COMMISSIONER: I agree
5 that some strikes in the past have been
6 very serious and if the employers had been
7 willing to prosecute or rather to enter
8 claims for damages the effect might have
9 been much better than has actually followed.
10 But what has been the fact. The employers
11 will not do that. Why? Because they say
12 "We must live with these people".

13 MR. HEALY: Some employers
14 have not taken that view, but many have.

15 THE COMMISSIONER: How many
16 actions have been successfully proceeded with
17 against individuals or under the local law -
18 that is the labour law - have they pursued
19 their claims to any order?

20 MR. HEALY: Not a great number.
21 One of the problems is that you have to go
22 through a double procedure. Hydro is doing
23 it right now. They are now preparing
24 information to put before a magistrate but
25 they went through weeks of hearings before
26 the Labour Relations Board and now they are
27 repeating the same thing all over again, before
28 magistrates.

29 THE COMMISSIONER: Well, let
30 us assume that the legislature would remove that



1 so that you go directly.

2 MR. HEALY: That would be
3 definitely an improvement and it would
4 mean that the enforcement machinery would
5 be strong.

6 THE COMMISSIONER: Then fitted
7 into the whole body of the assumption we
8 are making.

9 MR. HEALY: Well, I think
10 our basic problem assumes - with the whole
11 assumption that is being made - that it
12 interferes with the play of economic forces
13 that might prevent strikes or solve them one
14 way or the other.

15 THE COMMISSIONER: Do you think
16 that up to the present time we have followed
17 economic forces? What about the subsidies
18 we are giving? What about the policy of
19 full employment in which we engulf this
20 whole country under a primary duty to contribute
21 in some way to enable people to share in the
22 production by doing something?

23 MR. HEALY: When we have a
24 completely planned and controlled economy,
25 which as you say, and maybe we are moving
26 in that direction - we are moving in that
27 direction but we are not there yet - and we
28 may get there sometime, I don't know - then
29 perhaps what you say would have more application
30 but now we still, and this is particularly true

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1 of our small, independent employers, these
2 people are absolutely at the mercy of these
3 influences, these economic influences.

4 THE COMMISSIONER: And that
5 would be a very powerful consideration if
6 what you assume could not be met in any way.
7 You could not hit it off or to avoid the
8 consequence that you mentioned. You are
9 assuming that it can't be done. Assume
10 that it can be done.

11 MR. HEALY: Assuming that it
12 can be done, I could see a small employer
13 being met with what he regards as unreasonable
14 demands and let us say that he knows he
15 cannot grant without going out of business
16 because he is in a competitive market. I
17 can see a small employer being held up by
18 a union. He can't do anything about it
19 and his employees are on strike and there
20 are available replacements working at low
21 wages who are willing to work at the wages
22 he offers but he can't employ them. This
23 is one of the economic forces being ignored,
24 the fact that he is paying higher wages and
25 somebody who would work for him at the wages
26 he is offering, who are being employed at
27 lower wages. I can see such a person going
28 out of business. Now you introduce a man
29 for -----

30 MR. POLLOCK: Either going

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1 out of business or increasing his prices in
2 the general economy and unless he is in a
3 position that everyone could raise their
4 prices.

5 MR. HEALY: I mentioned that
6 he is in a competitive business and he can
7 only pay so much in wages if he is going to
8 sell his product.

9 THE COMMISSIONER: Well, let
10 us assume that he can do exactly what he
11 does today. Take into his employment anybody
12 and he is afraid of a picket line.

13 MR. HEALY: You are assuming
14 that he can employ and is free of a picket
15 line. Then he would be much happier without
16 a picket line but if you had one, there is
17 no question about that.

18 THE COMMISSIONER: He is
19 better off than he is today.

20 MR. HEALY: If he can continue
21 to employ and continue to operate his plant,
22 I quite agree. No employer likes to have
23 a picket line around his premises.

24 THE COMMISSIONER: I would
25 think that should be pretty obvious. Those
26 two factors, I think, are the factors that have
27 produced most of the conditions which are
28 in a sense destructive of social peace and
29 reasonable satisfaction, and if you can control
30 those two, why can't you maintain

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1 the present balance. You are assuming now
2 that today that small manufacturer is in a
3 position by virtue of his power to employ,
4 of more or less equality with the force of
5 labour against him.

6 MR. HEALY: That is right,
7 and it gives him a chance.

8 THE COMMISSIONER: Well, I am
9 assuming that we can reproduce that if the
10 facts that you assume are established and
11 in doing that, if he is financially weak,
12 that fact can be made known in secrecy to
13 a reliable and acceptable tribunal and that
14 tribunal would act accordingly. It would
15 say "Here, what is your financial position?
16 Here it is; all right, you can't afford
17 what is demanded and the answer is no".
18 The tribunal says "We will open the door
19 and you may employ whom you please".

20 MR. HEALY: Then I think the
21 trouble would start.

22 THE COMMISSIONER: The trouble,
23 yes, but the means and the conditions under
24 which that trouble would be handled, are more
25 susceptible to control than they are today
26 because today they are mixed up with social
27 relations.

28 MR. POLLOCK: Is your position,
29 if the tribunal makes its decision, that
30 people will disobey it?



1 MR. HEALY: Yes, I think they
2 will, and I think we would be in the same
3 position. Right now, when the court orders
4 that people do certain things and they are
5 disobeying it and I certainly think if they
6 would disobey the order of a court, they would
7 disobey the order of this person.

8 THE COMMISSIONER: Yes, under
9 those circumstances, but just think what
10 those circumstances are. In the first place
11 the average man doesn't appreciate the
12 refinement of rights and liberties and
13 occupations the way that you would. His mind
14 hasn't been trained for that purpose. He
15 sees, for instance, in the early days in
16 England when there was a strike at an industry
17 or a coal mine, what the employees who
18 withdrew from the work would do would be
19 to gather around the place where they normally
20 enter into their work to see what happened
21 and they see some of their men going in and
22 the fighting and the name calling and the
23 cat calling and one thing and another would
24 begin. Then other people are brought in
25 and that would all tend to generate as
26 it has been expressed right in this room,
27 generate a spirit of resentment, and it seems
28 to me when you go that far, you can't prevent
29 what one witness said here, human nature
30 from acting.

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1 MR. CAMPBELL: I find myself
2 most terribly interested in hearing what
3 you are saying, Mr. Commissioner, but I
4 wonder if we are perhaps overlooking two
5 things that to me, as a practical operator
6 of a business, come very much to the fore.
7 First of all, at the present at least, I
8 think we have to look for a balance of economics,
9 that is what we are basically trying for, and
10 I think what you are obviously trying for.
11 To be able to close a plant down without
12 the possibility of it being operated in part
13 or in whole, is, I submit to you, completely
14 imbalancing the economics because then it
15 is in the hands of the union as to whether
16 this plant will work or whether this plant
17 won't.

18 Secondly, I wonder in reality,
19 sir, and I know you have had a tremendous
20 amount of experience over many years, but
21 I wonder if we fully recognize exactly what
22 does control a union. Many a union leader
23 has said, "Give me 25 men in this plant of
24 2000 and I'll pull them out on strike in
25 24 hours". This has happened. The
26 influence is great. What happens on a
27 picket line is what is noticed in public
28 but believe me, sir, from experience what
29 happens behind the picket line is the real
30 danger. The intimidation, telephone calls,



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3077

1 sugar in gas tanks and the bricks dropped
2 over the wall. These are the things that
3 I think we have to try and - if at all possible -
4 guard against. We believe that the existing
5 laws and regulations as on the statutes are
6 not bad. I suppose there is nothing perfect
7 but they are not bad. Where they seem to
8 fall down, to us, is in enforcement and I
9 suggest that we are failing to recognize
10 here that in broadening it out - if I may
11 use the phrase - to a more idealistic approach,
12 we are far greatly increasing the problems
13 of enforcement and without enforcement none
14 of these plans could possibly work.

15 You refer to a tribunal and
16 I would obviously say the same thing as you,
17 we must have these men, and I frankly don't
18 know them and it is difficult to get men
19 to sit on an arbitration board today, let
20 alone a tribunal such as yours. But in
21 effect, you are then moving the control
22 into a third party's hands and this, to me,
23 completely imbalances the management-employee
24 or management-labour relationship.

25 THE COMMISSIONER: What do
26 you think would be the condition today if
27 they hadn't embarked on such legislation
28 20 years ago, as the Labour Law of this
29 province?

30 MR. CAMPBELL: In a changing

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1 society and a changing economy, obviously
2 laws have to be updated to be brought along
3 to meet the conditions under which we live
4 and the laws of 30 or 40 years ago in labour
5 or other areas, I don't think would be
6 applicable to today's society and I don't
7 know what would have happened.

8 THE COMMISSIONER: You don't
9 suggest that we are static now, do you?

10 MR. CAMPBELL: No, I certainly
11 don't. But I don't think we have completely
12 completed activating the existing rules under
13 which we are supposed to be operating.

14 THE COMMISSIONER: Well,
15 wouldn't you rather have a reasonably
16 satisfied body of workers who are annoyed
17 by the equalization of economic power rather
18 than dissatisfied or furious at the fact
19 that they are watching people come into the
20 plant to take their positions?

21 MR. CAMPBELL: If I thought
22 they had gone out on strike on reasonable
23 grounds and I find myself in a position to
24 hire others who are willing to work under
25 the condition I am prepared to offer, I don't
26 think I am very concerned at their dissatisfaction,
27 sir.

28 THE COMMISSIONER: The
29 dissatisfaction or satisfaction would be
30 manifested in their attitude toward reasonableness



1 and towards their employment.

2 MR. CAMPBELL: Well, presumably,
3 if they have gone on strike and I can get
4 other people to work for me, then they are
5 not going to be working for me and therefore,
6 my concern as to their satisfaction ----

7 THE COMMISSIONER: There again
8 you have to consider the existing conditions
9 here because you just saw two days ago where
10 our immigration policies are going to be
11 made much more open and general and you are
12 bringing in a great many people who haven't
13 gone through the discipline of the development
14 of labour and management, who are strangers
15 to it, but who are fleeing from a country
16 where they have nothing to do. There is no
17 wealth distribution for them. They can be
18 taken in. Now, do you think that it would
19 be desirable in their position to revert to
20 a generation ago?

21 MR. CAMPBELL: Do you suggest,
22 sir, that definition you just made, is true of
23 an immigrant from Ireland, that he does not
24 share in a participation in national wealth
25 and he doesn't know trade unionism, the home
26 of trade unionism?

27 THE COMMISSIONER: No, you
28 can't emphasize that because we are bringing
29 a great many in from other parts of continental
30 Europe.



1 MR. CAMPBELL: Where there are
2 trade unions, sir.

3 THE COMMISSIONER: Yes, but
4 these particular people, so we have it stated,
5 are not familiar with these things.

6 MR. HEALY: Their leaders
7 are most familiar with the press, sir.

8 THE COMMISSIONER: Well,
9 leadership of that sort doesn't amount to
10 much when it is a question of food or
11 starvation.

12 MR. CAMPBELL: Then we get
13 back to the economics. Leadership doesn't
14 count much, sir, if I am trying to run a
15 plant and I am down to my last dollar in
16 the bank.

17 THE COMMISSIONER: Well,
18 you won't suggest at all that from a social
19 standpoint the consequences of organized
20 labour in the last 200 years have greatly
21 raised the standard of living for all. And
22 the question is: Is that desirable?

23 MR. CAMPBELL: It has been
24 a contributing factor. Don't you think
25 technology has helped to raise the standards
26 of living, sir?

27 THE COMMISSIONER: Then why
28 have we abandoned the original rights which
29 are - and don't think I don't appreciate it -
30 I don't like interruption at all in my life but

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1 I find I have got to accommodate myself to
2 the reality. Why shouldn't industry
3 recognize the fact that it must adapt itself
4 to the reality?

5 MR. CAMPBELL: I think industry
6 does recognize it, sir.

7 THE COMMISSIONER: Well, as
8 no doubt you know, as in the case of labour
9 when you get a fascinating reality ahead of
10 you which you want, like wealth, it is pretty
11 hard sometimes to talk rationally to such a
12 person. I don't care from which side his
13 interest is. He says you are taking something
14 from me which is mine and I would say it is
15 rather the attitude that we take towards
16 productive industry which has become a necessity
17 in our civilization today. You are the
18 manager and the directors and the men of ideals
19 and the men who understand the working body
20 and that must be a fundamental assumption in
21 its continuance. I agree with that and
22 for the purposes of this argument that is
23 essential. Leadership today is wanted more
24 than ever before in the history of mankind
25 because we are going into social difficulties
26 and complexities which we never dreamt of
27 before. You must be the leader. All I say
28 is that leadership of what? Of a discontented,
29 snarling, hostile mob or of a reasonably satisfied
30 community. Because these men recognize the



1 necessity of leadership. They have leadership
2 of their own and they must go through the
3 higher finesse of refinement sooner or later
4 and they must realize that the leadership has
5 got to lead to peace and not to turmoil. But
6 when you look at it and change your attitude
7 and say not "This is mine", but "I am here
8 representing my society to administer this
9 to the best of my ability and to preserve
10 all of the essential elements of an industrial
11 situation", then I think you are on the way
12 to meeting the future which is right at our
13 threshold.

14 MR. CAMPBELL: You paint a
15 most graphic picture, sir, and I hope you
16 don't think that every time I walk through
17 our shop that there is a snarling mob howling
18 down at me.

19 THE COMMISSIONER: No, I don't
20 because I assume that you treat your men
21 fairly. I am talking about a condition
22 in which they feel they are not fairly treated.

23 MR. CAMPBELL: Well, that only
24 comes at the particular point of negotiations
25 which is the area which we are covering here.

26 THE COMMISSIONER: It comes
27 long before that. I have listened ----

28 MR. CAMPBELL: Not very much,
29 sir, it is whipped up to that point of
30 negotiation.



1 THE COMMISSIONER: Well, I
2 have listened to working men who have the
3 highest praise for their industry and they
4 say "We have the best conditions in the country
5 and we wouldn't change them for anything. We
6 are satisfied and we recognize the leadership
7 and we recognize that we must have direction
8 and we don't want to be changed". That
9 conditions in the other parts of the country, too.

10 So I think you are mistaken
11 when you assume that the body of Canadian
12 workmen are antagonistic to management.

13 MR. CAMPBELL: I never
14 suggested that for a moment, sir.

15 THE COMMISSIONER: I am not
16 suggesting that you did.

17 MR. CAMPBELL: But I thought
18 you said that I was wrong.

19 THE COMMISSIONER: When I
20 say "you" I mean the people who represent
21 the other side.

22 MR. CAMPBELL: But I don't
23 think that industrialists feel that
24 way, sir.

25 THE COMMISSIONER: Well, I
26 don't think you have perfect men anywhere
27 in this world. Where we have unreasonable
28 and dangerous leaders of labour, you have
29 similarly, men who belong to the 18th century
30 in industry, that is all.

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1 MR. CAMPBELL: I have no
2 argument there, sir. There are always
3 bad apples in the barrel.

4 THE COMMISSIONER: That is
5 true and all that this Commission has in mind
6 is to see whether the rationalities which
7 you speak of and which I believe is true,
8 is extended to mitigate the worst of
9 the objectionable features resulting from
10 industrial conflict. Now that is the objective
11 and it may or may not be capable of realization.

12 MR. CAMPBELL: But that is
13 our position, sir, on which we feel so strongly,
14 and some suggestions you have made are not
15 capable of accomplishment.

16 THE COMMISSIONER: Well, that
17 is what I would like to hear. What they
18 are and why they can't be.

19 MR. CAMPBELL: Well, the main
20 one we are talking about is the suggestion
21 you have put forward and the difficulties
22 of administration and the difficulties of
23 enforcement. We have a fairly - compared
24 with what you are suggesting, sir - we have
25 a fairly simple set-up of rules today and
26 they are not being enforced. I think that
27 is an undisputable fact, they are not being
28 enforced to broaden the rules with some
29 obviously very well thought out ideas on
30 your part, and my vocabulary isn't as broad

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1 as yours but I use the word idealistic, reaching
2 for the best. But if they are practical
3 to administer or practical to enforce, then
4 I suggest to you that we are simply stirring
5 the pudding and moving from one place to the
6 other.

7 THE COMMISSIONER: Of course,
8 you may assume that they are impractical,
9 they have never been tried, except in other
10 countries, at least in Australia, where the
11 regulation they have there, which is accepted
12 by both sides. It is rather astonishing.

13 MR. CAMPBELL: Australia
14 has other things that I think would astonish
15 you.

16 THE COMMISSIONER: Well, I am
17 not capable of very much astonishment.

18 MR. CAMPBELL: Well, I still
19 can be astonished, sir. Australia has a
20 protective tariff policy that says "If we
21 make it here, we won't bring it in and to
22 the dickens with price". You can afford
23 a lot of idealism ----

24 THE COMMISSIONER: I always
25 thought you stood for economies because some
26 of the economists tell us we ought to blast
27 these tariff walls and have everything on a
28 sort of world-wide competitive position with
29 a magnificent market that is spread in Europe
30 and that is what England wants to do, to get

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1 into a free market.

2 MR. CAMPBELL: I think Adam
3 Smith was the first man who brought it up,
4 sir, but I don't imagine you want to get
5 involved in tariff arguments here today. But
6 there is our position. The difficulties with
7 administration and the difficulties with
8 enforcement and we talk from some experience.
9 We may not talk with the same vision as perhaps
10 we should have, but we certainly talk from
11 experience.

12 THE COMMISSIONER: Of course
13 you do.

14 MR. CAMPBELL: I consider
15 a position where you would say that the union
16 has struck my plant and, therefore, I cannot
17 operate.

18 THE COMMISSIONER: I don't
19 say that at all. That is exactly opposite
20 to what I say. I say that if you are in
21 an equality of power that you will be left
22 alone, that is all, to fight it out between
23 yourselves.

24 MR. CAMPBELL: So that I can
25 hire where I like?

26 MR. POLLOCK: You can bring
27 back your employees, I suppose that's it.

28 MR. CAMPBELL: But my own
29 employees have gone on strike.

30 THE COMMISSIONER: Well, if they

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1 have and you are outside a narrow band of
2 industry, you are necessarily closed up.

3 MR. CAMPBELL: That is one
4 of the economic factors but I am free,
5 under your plan, to hire if I can?

6 THE COMMISSIONER: If you are
7 equal in power, no. You are preserved from
8 the admitted annoyance of having somebody
9 hanging around your plant threatening things.

10 MR. HEALY: You are introducing
11 compulsory arbitration or its equivalent.

12 THE COMMISSIONER: No, I am
13 stripping you of outside armament so that
14 the company and the men, as one, will be
15 permitted to fight it out.

16 MR. HEALY: But you introduce
17 a third party who opposes either side as to who
18 is right or who is wrong.

19 THE COMMISSIONER: He decides
20 where there is an inequality and which you
21 may be the first one to claim.

22 MR. HEALY: But he rules on
23 it and the effect of his ruling on it is
24 that one side or the other side is defeated.
25 It would have to be that.

26 THE COMMISSIONER: But you
27 must credit him with a bit of intelligence.
28 His object is to make neither side defeated
29 as far as the original position is concerned.

30 MR. HEALY: He has tremendous



1 power with enormous flexibility and I just
2 can't visualize such a person.

3 THE COMMISSIONER: Well, let
4 us get away from generalities and down to the
5 possibilities. Suppose you have 350 men of
6 high skill in an industry that is struck and
7 every man goes out. Can you continue any
8 substantial part of your performance as
9 an industrial producer?

10 MR. HEALY: It depends.

11 THE COMMISSIONER: Take the
12 ordinary conditions today.

13 MR. HEALY: Today British
14 American Oil just a short time ago ----

15 THE COMMISSIONER: But that
16 is not the condition I am speaking of. I
17 am speaking about a one-unit plant of
18 substantial proportions. These 350 men
19 are necessary and they have high skill.

20 MR. HEALY: With supervisory men
21 it could be 350 men and you could carry on.

22 MR. POLLOCK: But they
23 brought in their supervisory personnel from
24 all over the country and it was an artificial
25 situation, they couldn't carry on like that
26 for very long.

27 MR. HEALY: They are operating
28 on about 95 per cent.

29 MR. POLLOCK: Well, why didn't
30 they settle. If they could operate like that

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1 economically, then they found a solution.

2 MR. HEALY: Well, it cost
3 them a lot of money to do it. They would
4 pay higher wages. The fact is that there
5 was pressure on them and it remained and,
6 as a matter of fact, the settlement, I think
7 was quite satisfactory to the union.

8 THE COMMISSIONER: Well,
9 take one of the very interesting industries
10 right in this metropolitan district. Take
11 350 men to run that plant and they are all
12 highly skilled and they all go on strike
13 and they hold together. What can the
14 industry do?

15 MR. HEALY: I would think
16 with the labour market as it is for highly
17 skilled people today in Toronto, probably
18 they would close right down.

19 THE COMMISSIONER: Is there
20 any doubt about that?

21 MR. HEALY: No.

22 MR. CAMPBELL: A bit of a
23 theoretical example, but under the example
24 you have described, the answer is no, there
25 is no doubt about it.

26 THE COMMISSIONER: Well, take
27 it that they are semi-skilled. Can you replace
28 350 men?

29 MR. HEALY: Yes, I think you
30 could today.

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1 THE COMMISSIONER: Can you
2 give me an example where you have a strike
3 in a small plant in which you have taken on
4 as many strike-breakers as that?

5 MR. HEALY: I don't like the
6 word "strike-breakers", if you don't mind.

7 THE COMMISSIONER: Well, I
8 am merely distinguishing them.

9 MR. HEALY: Well you heard
10 a lot about the Wolverine Tube case in
11 London. I don't recall the exact number
12 of people employed but they hired about 60
13 per cent of their work force and I think
14 the work force is about 300 and they hired
15 about 60 per cent of it and they operated.

16 MR. POLLOCK: Well, let me
17 ask you: They operated - talk about economics.
18 If you say that you ought to employ, in economic
19 reality, you ought to be able to get cheaper
20 employees if you can because of the economic
21 argument and if somebody is saying "I want
22 \$3 an hour" and there are people in the
23 community who are prepared to work for \$2.50
24 an hour and you say, economically, you should
25 get those people to take the \$2.50 if the
26 others go on strike.

27 MR. HEALY: Particularly if
28 you go out of business at \$3 an hour. It is
29 a question of staying alive or dying.

30 MR. POLLOCK: I want to distinguish

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1 between the practice of hiring temporary
2 people at (a) either the supervisory people
3 that are brought in as a tactical method
4 to beat the strike and to carry on for
5 some period of time; or (b) people who
6 are brought in from the outside community
7 at a higher rate of pay than is asked for
8 by the union or that the company is prepared
9 to pay the union. I want to ask if you
10 could eliminate those people, if you take
11 ordinary people that come in, what about
12 the factors that we have heard of, the
13 greater waste factor, the training period
14 and, in some cases, they bring in not
15 enough people to amount to any kind of production
16 at all and that the costs of keeping the plant
17 open are greater than any kind of production.
18 So it is really a sort of psychological thing.
19 They will run the machines close to the windows
20 and punch out waste and things like that.

21 MR. HEALY: There may be
22 a psychological factor in some cases but
23 for management doing this, the reason for
24 doing this is usually because of customer
25 demand and it might cost you considerably
26 more to be producing during this period
27 of time for the reason that you mentioned,
28 but it is because you might lose your
29 customers. So you will spend more money
30 to supply them for the time being. Or maybe

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1 you want to ship materials and you may want
2 to let people have their patterns back that
3 belong to them. You need to employ people
4 to do this and they might be supervisory
5 people.

6 MR. POLLOCK: I am not quarreling
7 with that aspect of it, but there have been -
8 or I can say in fairness probably more union
9 people have suggested this than management,
10 but management has agreed in some cases that
11 it is a good tactic to use, it is to break
12 the will of the strike. You appear to be
13 producing and it costs you half a million
14 dollars to do that.

15 MR. HEALY: Mr. Pollock, we
16 are not approaching it on that basis and we
17 are not talking about the psychology of the
18 thing. We are talking about the economics,
19 and it may be that some people at times -
20 and this is very rare, I assure you - are
21 thinking in those terms, you know, "This
22 is the reaction it will have and we will
23 break their will". It is purely a question of
24 saying at some point along the way, "We must
25 operate, otherwise we are going to go down
26 the drain".

27 THE COMMISSIONER: What do you
28 mean by "down the drain"?

29 MR. HEALY: I mean go bankrupt,
30 sir.

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1 Now would Mr. Rapsey like to
2 say something?

3 MR. RAPSEY: Just a small
4 point, Mr. Commissioner. Mr. Pollock was
5 requesting an opinion on what might happen
6 in a firm of 350 skilled men if they were
7 on strike. Now, Mr. Commissioner, there
8 is no such thing as a firm of 350 men, all
9 of them skilled. This is not a practical
10 statement.

11 THE COMMISSIONER: Well make
12 any qualifications that you like.

13 MR. RAPSEY: I would like to
14 state this and hope you will bear me out.
15 In the majority of struck firms in Ontario
16 today, they do continue to operate in one
17 form or another. I am sure the facts will
18 bear out that statement.

19 THE COMMISSIONER: But that's
20 not my question. Do they continue to operate
21 by virtue of the fact that they take on new
22 employees or they do it with the balance of
23 their employees, or those who don't strike?

24 MR. RAPSEY: The answer could
25 only be, yes, to both. Some of one kind
26 and some of the other.

27 THE COMMISSIONER: Could you
28 let me have a case of those who have been
29 able to continue by bringing in new men?

30 MR. RAPSEY: I didn't quite



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3094

1 understand that question, Mr. Commissioner.

2 THE COMMISSIONER: Could you
3 name a strike because I would like to
4 investigate the circumstances. This
5 brings your generality to the special and
6 specific example.

7 MR. RAPSEY: The Typographers'
8 Union is an obvious example right here in
9 Toronto.

10 THE COMMISSIONER: Well, if
11 you would give me the details of some of
12 those afterwards, I would appreciate it.
13 You see it is sometimes dangerous to simply
14 rely on general impressions and generalities
15 in statements.

16 MR. RAPSEY: The reason I
17 was mentioning a general statement, Mr.
18 Commissioner, is that you seem to have the
19 impression that continuing to operate was
20 not the usual case.

21 THE COMMISSIONER: But I
22 mentioned one case where there are required
23 skills. You can qualify that in any way
24 you please. They may be semi-skilled or
25 you may have half skilled and half unskilled
26 or half labour or semi-skilled. I don't
27 care what combination you take as long as
28 you give me illustrations of the effectiveness
29 of that in the case of a strike.

30 MR. RAPSEY: Well, I should

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1 think, sir, it would be better to make a
2 tabulation for you.

3 THE COMMISSIONER: Yes, I would
4 prefer that.

5 MR. RAPSEY: Rather than to
6 give isolated cases.

7 THE COMMISSIONER: And we
8 would appreciate very much if you would give
9 us a tabulation of that sort.

10 MR. POLLOCK: I think that
11 perhaps - I don't suggest this disparagingly -
12 that the tabulation would be surprising
13 to you. Because we had a tabulation from
14 a union who had been saying that all kinds
15 of plants had been employing strike-breakers
16 and when they added it all up they were
17 very surprised that they weren't. In many
18 cases of the 99, I would hesitate to suggest
19 that I've done any kind of detailed analysis
20 on these, many plants - and I think the
21 majority of them - didn't continue to operate
22 and not only those with the big units but
23 those with 48 employees and those with 36
24 employees, those with 150 employees. So
25 that there are a lot of plants that close
26 up when the strike comes in.

27 THE COMMISSIONER: Well, we
28 will find that out, perhaps.

29 MR. POLLOCK: Perhaps we
30 could get this from your organization and we

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1 would be very obliged for it.

2 MR. RAPSEY: Mr. Pollock, I
3 think it would be very difficult to put them
4 in nice, neat columns. This plant continued
5 to operate with partial staff and this
6 plant continued to operate with new employees.
7 I would think so many of them would be a
8 mixture of the two.

9 MR. POLLOCK: Well, we will
10 put those in another column, those with the
11 mixture.

12 MR. RAPSEY: I am afraid, sir,
13 they would have to be all in one column.

14 THE COMMISSIONER: Well, we
15 might be able to make further inquiries once
16 we have the names of the parties involved.
17 Because what really we are thinking of is
18 the reality of these conditions. We all
19 have general impressions but what actually
20 has taken place and which certainly have
21 some relevancy.

22 MR. POLLOCK: We have been
23 told in your particular industry, I think
24 in Peterborough, somebody from the U.E.W.
25 appeared and his reference was to C.G.E.,
26 that they don't operate or try to get employees
27 to replace people in production. I don't
28 know if that is common practice in your
29 industry or whether it is unique to your
30 industry or whether they realize they can't

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1 get them, then they were not going to try to
2 get them or they realize if they try and get
3 them, then there is going to be a lot of
4 difficulty.

5 MR. CAMPBELL: I think of
6 the two ---

7 MR. HEALY: I am advised
8 by the representative of C.G.E. that that
9 is not the company's policy. They have
10 had very, very little strike experience.

11 MR. FLOOD: We had a strike
12 in 1919 and ----

13 MR. POLLOCK: Well, I wish
14 you would tell us what the magic is.

15 MR. HENLEY: I think that
16 is illustrative of what we have been talking
17 about here, the tendency to focus on the
18 experience of two years, and out of that
19 experience to draw some conclusions which
20 really arise out of very special economic
21 conditions.

22 THE COMMISSIONER: Well, take
23 ten years. We have generally been doing
24 these calculations over ten years.

25 MR. HENLEY: Yes, but the
26 wider incidences of strikes, I think, is the
27 phenomenon, primarily, of the last two or
28 three years. These figures were used recently
29 before you that 1966 showed a manhour loss
30 virtually double the 1965 experience.



1 THE COMMISSIONER: Well, I
2 think that inquiry that was made by Professor
3 Carruthers went back ten years.

4 MR. POLLOCK: It was since
5 1958.

6 MR. HENLEY: In the buoyant
7 economic times that we have had and the full
8 employment factor, it has not been possible
9 to take on many new employees during a strike
10 and in less favourable economic conditions
11 we don't have as many strikes so we are in
12 a bit of a circle argument here, sir.

13 THE COMMISSIONER: That is
14 true but still we have a policy now of creating
15 positions for everybody and that is bound
16 to have a tendency to keep the labour market
17 that is available to a minimum.

18 MR. POLLOCK: Just on figures,
19 1965 was a big year, 269, but before that, in
20 1964 you had 188, 1963 you had 181, 172, 166,
21 156, 104 and 132, going back to 1958. Now
22 some of that decrease in number is due to the
23 smaller number of plants, I suppose, or the
24 smaller number of employees available and I
25 don't know whether it is a question of all
26 of a sudden in 1965 we've got twice as many
27 as we had in 1958. I think there are all
28 kinds of factors, economic factors, and I
29 hate to use that word over again, but people
30 have been passed by and people are feeling

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1 the pinch more, at least that is the complaint,
2 and they say we are catching fire and let us
3 get on and press forward and get more. I
4 don't know whether we can be optimistic enough
5 to say this is just the peak and we are on the
6 way down again and it will be fine for another
7 20 years and then we are up again. If we
8 could do that, I think we would be in good
9 shape.

10 THE COMMISSIONER: And you
11 can see some tendency in the United States
12 which influences us very much. I think you
13 are probably all in favour of bringing in
14 all of the American capital you can get
15 and the minute you do that, to a certain
16 extent, you are increasing your own, or
17 the domination of yourselves to what happens
18 in that country. And they are today
19 suggesting they are going to dictate the
20 wages in Canada by the agreements in the
21 United States. Now, these are all tendencies
22 that seem to show that we are not going into
23 greater simplicity of situations, we are
24 going into greater complexity.

25 ---Short recess.

26
27 THE COMMISSIONER: Mr. Healy,
28 we have had a very good discussion on one
29 topic, now is there anything you would like
30 to follow on in?



1 MR. HEALY: The only other
2 item I was going to draw to the attention
3 of the Commission, sir, is with reference
4 to the enforcement of law by the police and
5 we have already dealt with that. I would
6 refer you now to page 10 of our submission
7 and if I might just read a part of that in
8 case you might wish to discuss this part of
9 it. And it is the third paragraph:

10 "if, therefore, in all labour
11 disputes, the police force were
12 adequate to enforce the law
13 and to arrest those who
14 damaged property, assaulted
15 others, threatened others
16 or impeded entrance, then
17 there would perhaps be no
18 need to involve the Courts
19 in injunction procedures. It
20 is apparent, however, that some
21 police forces do not enforce
22 these rights and in many cases
23 stand by while criminal acts
24 take place before their eyes
25 with no arrests or subsequent
26 prosecutions.

27 The Association believes
28 that informed and trained police
29 forces can materially assist
30 in the prevention of illegal



activities on picket lines.
It has been brought to the
Association's attention
that the police chief of one
of the smaller Ontario
communities in which a strike
was threatened recently
distributed copies of Section
366 of The Criminal Code
to all persons affected, with
some additional editorial
comment for the purpose of
instructing strikers as to
what is illegal."

Now, these procedures were found, and there
has been more than one occasion of that, where
this kind of work is done by the police. And
usually, it is very effective. I think Mr.
Rapsey had an experience, did you not, Mr.
Rapsey? In Preston? And found it very
effective.

MR. RAPSEY: That is correct,
yes.

THE COMMISSIONER: But around
1925 to 1932 - and I have forgotten the
year - the Attorney General of England came
into Parliament and asked for an amendment
and they asked "Why don't you use the police
force" and he said, "I have neither enough
courts nor jails to deal with the number of



1 men who are involved". So you must consider
2 numbers and you can't take up arms. You
3 have an insurrection when you get to that
4 part.

5 MR. HEALY: Where you run
6 into most of the difficulty, however, sir, is
7 in the smaller centres where the police force
8 is small and inadequate and we have found -
9 and usually we are talking about not thousands
10 of people but a matter of 100 or 150 to 200
11 people - and we have found with adequate or
12 knowledgeable police and knowing the techniques
13 of handling this type of problem the matter
14 can be kept under control without much
15 difficulty.

16 Now, we are here to discuss
17 with you, anything further you wish. We
18 haven't anything else at this point to raise
19 with you, Mr. Commissioner, but we will be
20 very happy to discuss any topic further should
21 you so wish.

22 MR. POLLOCK: This relates to
23 the allegation, I suppose that the injunction
24 is used in the main, to permit the employer
25 to employ these alternate employees and
26 without the injunction, he couldn't do it.
27 It was suggested to us even if the picket
28 lines participated in no acts of violence
29 and didn't obstruct anybody and it was merely
30 guilty of having 30 or 40 or 50 people there



1 with signs, they say that that would persuade
2 enough people not to cross the picket lines
3 and that the injunction comes in and reduces
4 the number of people and that the employer
5 can then attract these people without having
6 the danger of having them persuaded not to
7 cross.

8 MR. CAMPBELL: Well, Mr.
9 Pollock, I think the important thing that
10 the injunction has been used for is to obtain
11 and maintain access to the plant; in other
12 words to ship what goods you have and be
13 able to take tools in and out and maybe
14 carry on maintenance that you want to do while
15 you are on strike and things of that nature.
16 But the injunction has been used to gain
17 access to the plant far more than to get
18 strike breakers in numerical number
19 of cases than it is to have strike breakers
20 cross the picket lines.

21 MR. POLLOCK: So that the
22 suggestion we had yesterday, or the day before,
23 that strike breakers ought not to be engaged, or
24 there ought to be a limitation on the strike
25 breakers where an injunction is sought, really
26 wouldn't affect the situation, that you
27 wouldn't have that much opposition to it if
28 one of the terms of obtaining an injunction
29 is that we are not trying to employ strike
30 breakers and the injunction only lasts so long

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1 if we don't employ strike breakers.

2 MR. CAMPBELL: No, I couldn't
3 agree with that, Mr. Pollock, because I think
4 the right to operate and the right to access is
5 still an inviolable right of the owners and
6 management of the plant, just as it is the
7 right of the individual to go on strike. But
8 in practice the injunction has been used to
9 gain access rather than to gain access of
10 strike breakers numerically.

11 MR. POLLOCK: Access to the
12 plant by maintenance people and access by
13 office workers?

14 MR. CAMPBELL: Yes, office
15 people and the rest of your employees - your
16 shippers and buyers.

17 MR. POLLOCK: The non-striking
18 employees. So that you are, therefore, not
19 far apart from that position.

20 MR. CAMPBELL: I am still very
21 far apart, as far as the principle goes. I
22 only said that in practice, a great number of
23 injunctions obtained would be to gain access
24 rather than to facilitate the crossing of
25 the picket line by strike breakers.

26 MR. HEALY: But in any event
27 I think, Mr. Pollock, you referred to a larger
28 group being more persuasive than a smaller
29 group. I think the courts limit the number
30 of pickets not on that basis but if mass picketing



1 per se is intimidatory, it is only on that
2 basis that the pickets are reduced because
3 the persuasive side of picketing is always
4 available, no matter how many pickets are
5 there.

6 MR. POLLOCK: Well, the only
7 exception that is suggested is that mass
8 picketing per se ought not to be a ground
9 for injunction. If they are blocking access
10 or if there are any acts of violence or
11 if there are libellous statements, those
12 are grounds for injunction, but perhaps you
13 need an active imagination to picture a
14 situation where you have 30 or 40 people
15 there and they aren't blocking access to the
16 plant, there is no quarrel with that.

17 MR. HEALY: The U.E. brief
18 refers to peaceful mass picketing and it
19 is a contradiction in terms.

20 MR. POLLOCK: Not necessarily,
21 but it may be.

22 THE COMMISSIONER: Well there
23 is one chance that it is human nature.

24 MR. POLLOCK: You would still
25 be in the position that if they participated
26 in illegal action you could still take action
27 against those individuals by injunction or
28 some other way, but if you have a situation
29 where you felt you could attract these
30 people through the lines in the absence of

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1 illegal acts and you didn't want to seek an
2 injunction but you wanted to employ the
3 strike breakers, you would probably be free
4 to do that. But with the concession that
5 if you do take action by way of injunction
6 to restrict their communicative value of
7 numbers, then perhaps you ought not to be
8 able to do it for the purpose of engaging
9 strike breakers. I think that is the position
10 taken by some unions.

11 MR. HEALY: Once again, Mr.
12 Pollock, I submit that you don't impart
13 information more effectively with 100 people
14 than you do with three, and it is true the
15 unions are saying this, but I submit that
16 this is hypocrisy on their part.

17 MR. POLLOCK: You don't impart
18 the information, or any more information, but
19 you probably indicate that that view has
20 more support by a number of people.

21 MR. HEALY: There is an
22 inherent threat there

23 MR. POLLOCK: There is an
24 analogy drawn to the mass people that come
25 to a political meeting at Maple Leaf Gardens.
26 There are 15 thousand people there to hear
27 the leader of the Conservative Party. They
28 are all party stalwarts and they know the
29 message and they have seen it and they have
30 probably written it. They are there in numbers

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1 and they are there for the rest of us to
2 say: "They've got 15 thousand people who
3 subscribe to that; maybe it is not a bad
4 thesis". It is that type of aspect.

5 MR. CAMPBELL: A form of
6 intimidation, Mr. Pollock?

7 MR. HEALY: I can't see it
8 is anything but intimidation, no matter
9 how you analyse it.

10 MR. POLLOCK: I suppose it
11 is whatever political view you hold.

12 MR. HEALY: I think Mr. Little
13 wanted to say something.

14 MR. LITTLE: Mr. Commissioner,
15 this is an observation that you may have seen
16 or may not have. When a strike is called
17 no one knows what its period of duration
18 will be. There are frequently, several
19 unions in a manufacturing plant. I am thinking
20 of a case now of my own, in which we had
21 a strike in which the office personnel,
22 including technical, supporting personnel through
23 the engineering organization, elected to
24 go on strike. There was mass picketing in
25 all areas of the plant and the purpose was
26 to convince those in the other unions that
27 they shouldn't enter the plant. Now, this
28 particular union that went on strike is an
29 important element of our business but their
30 contribution is six weeks prior to the time

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1 it is required in the manufacturing process.

2 THE COMMISSIONER: Would you
3 mind repeating that?

4 MR. LITTLE: What I mean is
5 the engineering has to be done well ahead
6 of its introduction into the manufacturing.
7 In other words, you have to design, write
8 out specifications and so on. So we don't
9 know how long the strike will last. We
10 have finished merchandise in the warehouse,
11 we have semi-processed goods and we have
12 it all the way back to the stage of the
13 incipient raw material. Here you have a
14 situation where we don't even need to bring
15 people into this plant from a strike breaking
16 point of view. All we want in that plant
17 are the people that are already under contract.
18 It has nothing to do with the element that
19 is on strike. In our particular business
20 it would be useless to hire people off the
21 street because of the technical complexities
22 involved in the process of manufacture. I
23 wanted to make this point clear.

24 THE COMMISSIONER: Well, that
25 is exactly what I had in mind. If you had
26 that staff you can't replace under the suggested
27 arrangement, you could continue without any
28 obstruction?

29 MR. LITTLE: Now, if this group
30 that is on strike - let us say it is out for three



1 months - then our factory is in trouble, but
2 it is not immediately in trouble.

3 MR. POLLOCK: Your position
4 is that they produced some material and had
5 it in a stock pile, or something like that.
6 They have been paid for that producing and
7 they are interested in the production end
8 of it. As long as you are not producing
9 during that time, then all you are doing is
10 shipping out and marketing what is produced?

11 MR. LITTLE: No, no. I am
12 saying the engineering takes place here for
13 an operation that takes place here in terms
14 of time, maybe six weeks. There is nothing
15 to stop this element which is not on strike
16 and has no interest in the strike first hand.
17 They can carry on.

18 MR. POLLOCK: What are they
19 doing?

20 MR. LITTLE: The technical
21 support for the engineering are on strike
22 but this information is fed ahead. What
23 we are working on today was done six weeks
24 ago and what will be done six weeks hence
25 would have to be done today and it wouldn't
26 be done because they are on strike.

27 MR. POLLOCK: Well, your
28 people on strike are the engineering people
29 and the product designers?

30 MR. LITTLE: The office, and



1 supporting the engineering and without that
2 support there will be no information flow.
3 So at this point of time the strike takes
4 place and that engineering and so on, was
5 done back here earlier. So we can carry on
6 for six weeks and we don't know whether the
7 strike will last six weeks or six months
8 but at least we can carry on and can clean
9 out the merchandise that is finished and we
10 can clean out the merchandise that is on
11 its way and we can reduce our investment
12 and bring in some cash from the sale of the
13 goods that ^{are} finished, or will be finished.
14 I just wanted to bring that point up.

15 MR. CAMPBELL: So it is
16 important for you to have access to that
17 plant at all times?

18 MR. LITTLE: That is right,
19 yes, and I am confirming that we don't
20 necessarily, within that kind of a period of
21 time, attempt to break the strike by hiring
22 new employees.

23 MR. POLLOCK: New engineering
24 employees?

25 MR. LITTLE: New engineering
26 employees, that is right, all new employees
27 if these people elect to respect the picket
28 line.

29 THE COMMISSIONER: Well, that
30 is what the suggestion amounts to, that it is

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1 going to allow you to make use of any men that
2 remain in your plant?

3 MR. POLLOCK: Then really, my
4 question to you is really that we are just
5 talking about a different unit. You were
6 talking about the background and I was talking
7 about the production people working in the
8 plant. So, as long as the unit that is on
9 strike is not replaced by new people, you
10 feel that you ought to be able to make use
11 of what those people have already done up
12 to the time they go on strike.

13 MR. LITTLE: That is right.

14 MR. POLLOCK: And that includes,
15 as well, stock piling if you are talking
16 about the production unit on strike, or
17 something like that, and you just want to
18 be able to ship out what is being produced.

19 MR. LITTLE: And produce
20 more because I have the engineering.

21 MR. CAMPBELL: Well, Mr.
22 Pollock, we are getting a little technical
23 here and I wouldn't want to leave confusion
24 in your mind or in Mr. Commissioner's mind.
25 It is one thing to have this unit on strike
26 and then simply for this to go on
27 strike, but if this unit happens to be the
28 one to go on strike then these people are
29 turning out things and there is no productive
30 force to produce them, so the particular case



1 where Mr. Little is trying to make his point,
2 is not a generality; it is true that one unit
3 can come out and certain things can carry on
4 but it is very important as to which unit
5 that is. But the real point we are trying
6 to make is that there should be access to
7 the plant and be able to do whatever we can.

8 MR. POLLOCK: Well, if your
9 production unit went out, you ought to be able
10 to replace your production unit.

11 MR. CAMPBELL: Yes.

12 MR. HEALY: And, indeed, Mr.
13 Little said he was unable to replace his
14 engineering and it is a question that he
15 couldn't get other people in that case. Such
16 as the example we were using earlier, sir, of
17 skilled people when they are not available.

18 MR. CAMPBELL: But you might
19 put them on production.

20 MR. POLLOCK: Then it is now
21 an access question of being able to get your
22 maintenance people in and being able to get
23 trucks in to ship out goods that have already
24 been produced. That is not what we are
25 talking about, we are talking about the whole
26 broad access. You want access for every
27 purpose.

28 MR. CAMPBELL: Yes, any purpose.

29 MR. POLLOCK: Well, this
30 must be the halfway house.



1 MR. HEALY: How can it be the
2 halfway house?

3 THE COMMISSIONER: I must say
4 to Mr. Campbell, with respect, that he is
5 failing to deal with the reality of dealing
6 with that situation, and I am not criticizing
7 here at all, of his failure to appreciate
8 on the part of anybody who proposes such a
9 scheme, of the hidden difficulties in
10 enforcement. So we have sometimes those
11 factors which are not visible and which may
12 be overlooked, but I think in the discussion
13 that has taken place, very few elements have
14 been suggested which would be material. You
15 can suggest this, that or the other thing
16 but the question is, how material are they?
17 How influential are they? Do they really
18 play a predominant part or even an effective
19 part? It seems to me that that illustration
20 there narrows the field that we are talking
21 about and we admittedly, in a field in which
22 the working force is strictly limited and
23 the skills are determinative.

24 MR. CAMPBELL: Well, sir, I
25 accept your comment about my failure to perhaps
26 recognize something. It has been my concern,
27 of course, that perhaps the Commission has
28 failed to recognize the problem of enforcement
29 of the alternative.

30 THE COMMISSIONER: That is true

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1 and I appreciate that, and I accept it as a
2 proper criticism.

3 MR. CAMPBELL: And we have had
4 some experience with the existing situation
5 which, if it was adequately administered,
6 would achieve much if not all of what you
7 are trying to achieve.

8 THE COMMISSIONER: Well, I
9 suppose there is no purpose in repeating
10 anything, but I think you haven't a full
11 appreciation of the difficulty of handling
12 masses of men who are in a condition of
13 emotional excitement. It goes to the very
14 roots of democratic government; how are
15 you going to hold people to any loyalty
16 to rule or to law, to respect law and
17 maintain the solidarity of society if they
18 are reasonable men, if they are really
19 dissatisfied in the sense of unfairness.

20 MR. CAMPBELL: Really, I
21 don't think reasonable men are dissatisfied.
22 But it is a political pill to gain more power
23 but it is not a case of the average man
24 being dissatisfied.

25 THE COMMISSIONER: Well, we
26 have changed our law and today it is status
27 and status is the thing created by industry
28 and we have given ourselves over, body and soul,
29 to that at the present time. And how long
30 it will continue, nobody can make anything

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1 more than a guess. But at the present time,
2 we have certain conditions which can't be
3 overlooked and one is the sense of a lack
4 of restraint from those who, by the introduction
5 of ideas which they never dreamt of before,
6 and the stressing upon the rights which
7 both sides indulge in without mentioning
8 the responsibilities that are attached to
9 all rights. You get into a stage where
10 you are called militant, which is simply
11 a rather euphemism for excusing the violation
12 of the regulation which society has so far,
13 up to the present time, deemed essential
14 to the maintenance of peace. Because peace
15 and order are the conditions which must be
16 present and not perfectly, but within reasonable
17 limits of any continued civilization today.

18 MR. CAMPBELL: But I suggest
19 to you, sir, with the greatest of respect,
20 that the side of these forces which we
21 represent has done more than go halfway.
22 You put us in sometimes an embarrassing
23 position when you say, "Well, give me this
24 case or give me that case", but the fact
25 remains it is a great deal of good sound
26 judgment and community responsibility and
27 national responsibility that prohibits us
28 from precipitating some of the things that
29 can happen. I think we have conducted ourselves
30 well and what we suggest is that we need the

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1 support to continue that conduct and to be
2 able to carry it out even more effectively.

3 THE COMMISSIONER: I have no
4 doubt in the world that you are intelligent
5 men and you believe that you have acted as
6 you declare. But you are not your own
7 judges of your own conduct. You have got
8 to come to the bar of public opinion and I
9 am not sure that public opinion would -
10 certainly in the past it condemned you - that
11 you hadn't, that your view of the performance
12 of your duty as citizens was not accepted
13 as the real view of the mass of people.

14 MR. CAMPBELL: I see what you
15 mean, sir, but what I am saying is that there
16 could have been a great deal more trouble
17 entirely within our legal limitations and I
18 suggest within our moral rights, had we
19 not taken the kind of broad judgment and
20 community responsibility that we have. I
21 am fighting for our side, sir. I don't mean
22 to be disrespectful at all, but the mere
23 fact that we have done it, perhaps inhibits
24 some of our arguments here this morning.

25 THE COMMISSIONER: Yes, but
26 you know, we do have such things as violent
27 public opinion. We do have in extreme
28 situations, revolution. Now, no sensible
29 man wants to reach the point of that extreme,
30 does he? There is a gradation of dissatisfaction.

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1 If that is genuine, then it ought to be respected
2 and something done to diminish the dissatisfaction
3 because we are all dependent upon the work of
4 the masses of human beings who make up our
5 society. You can talk as you please about
6 leadership but you've got to have people to
7 lead. You have got to have the manifestation
8 of your ideas put into action by mass. We are
9 rapidly approaching the situation where you
10 can do a great deal without humanity and
11 where thinkers have made that possible, but
12 nevertheless, there remains a residue of life
13 of work, some of it dirty work, as we look upon,
14 which is done by those who are, in one sense,
15 not as fully equipped for the communication of
16 ideas to the public as this select group is.
17 We must recognize the different functions that
18 people do and while I wouldn't say for a moment
19 that our scale of values, which is this, what
20 service can you be to this human being, is
21 the ultimate scale of values, but it is for
22 the present, the scale of values by which
23 we must measure the contribution of other
24 people. But that contribution of other
25 people is essential to you as well as to them.
26 You can't live in a vacuum and you can't
27 separate yourselves from the mass of your
28 fellow citizens.

29 MR. CAMPBELL: I couldn't agree
30 with you more, sir, but it would seem to me

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1 from your comments just a few minutes earlier,
2 in this same discussion, that you were
3 recognizing that because one group objected
4 to something and has raised some fuss about
5 it which creates some public opinion in some
6 particular area, that possibly what I must
7 draw out of it is that, having tried to be
8 responsible citizens, to minimize the
9 opportunities for those kind of things arising
10 that possibly if encouraged or permitted,
11 perhaps our point of view would have received
12 more sympathy. I think there is a penalty
13 here for having tried to be people of
14 responsibility.

15 THE COMMISSIONER: Well, I
16 don't think that we should demand in the acceptance
17 of responsibility, anything more than the
18 satisfaction of contributing something to
19 our society in the time and day of our lives.
20 I don't think we should be ~~reducing~~ ourselves
21 to the question of receiving good work cards
22 or rewards of that nature. If we do our
23 duty, that ought to be sufficient.

24 MR. CAMPBELL: I agree with
25 you there, sir, and I am not looking for any
26 honour or recognition, but when the dissident
27 minority gets higher attention because of
28 flouting the law or disregarding the law and
29 then to have an argument that this is
30 difficult to enforce and the failure, I suggest

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1 to recognize the amount of work that is being
2 done on this side to limit these disturbances
3 to a number that have been, is not giving
4 fair weight to the two sides of the question.

5 MR. POLLOCK: I suppose the
6 only comment I would like to make on that
7 is if we argued the management side with
8 you, there wouldn't be much discussion.

9 MR. CAMPBELL: I couldn't agree
10 with you more.

11 MR. POLLOCK: I think we had
12 the same criticism from the other side of the
13 table, that they think we are going back to
14 the 18th century, so I don't think any of
15 the comments made this morning are directed
16 personally to just anybody.

17 MR. CAMPBELL: I didn't mean
18 to suggest that at all, sir. I am trying to
19 be as objective as the Commissioner, although
20 not as successfully.

21 MR. POLLOCK: Well you are
22 trying to be objective and we are trying to
23 be objective on the other side. But the
24 question of having two poles and trying to
25 balance them out and accommodating the interest.

26 THE COMMISSIONER: Well, Mr.
27 often
28 Campbell, I feel that I would have preferred
29 to live about 200 years ago with a modern
30 medical association.

MR. POLLOCK: Let me ask one



1 question, Mr. Healy. In relation to the second
2 page of your brief, you talk about the legal
3 entity and making the unions responsible. I
4 want to know what basis of liability or what
5 basis of responsibility would you attach to
6 the union for the acts of its members. Would
7 you adopt the position that is taken in the
8 Polymer case, that they have to dissociate
9 themselves as much as they can from the
10 unsanctioned activities and penalize people,
11 or do you say absolute liability for any
12 type of activity?

13 MR. HEALY: I don't think it
14 is realistic to expect absolute liability.
15 I think the test of the Polymer case would
16 be the one that is realistic.

17 THE COMMISSIONER: Well,
18 gentlemen, we are very much obliged to you
19 for being here and engaging us in such a
20 contest. We thank you very much for your
21 presence.

22 MR. CAMPBELL: I can assure
23 you, sir, that we have appreciated/and your
24 wisdom and your tolerance and your patience
25 is something that will stay with us.

26 ---Luncheon adjournment.
27
28
29
30



1 ---On resuming

2 MR. POLLOCK: The Oshawa
3 and District Labour Council. Mr. Pilkey
4 won't be here. Mr. Edwards, you are the
5 1st Vice-President?

6 MR. EDWARDS: I would like to
7 introduce my colleagues. On my right is
8 Mr. Doug Sutton, who is the 1st Vice-President
9 of Local 222 of the U.A.W., and on my left
10 is Mr. Joe Grills of Local 1870 of the United
11 Steelworkers and an executive member of the
12 Oshawa and District Labour Council.

13 MR. POLLOCK: We obviously
14 haven't had the opportunity of reading your
15 brief so we will certainly be prepared to
16 listen to whatever you have to say and you
17 may present it in any manner you wish to present
18 it.

19 MR. EDWARDS: I would like to
20 first apologize to the Commissioner, on behalf
21 of our Mr. Pilkey, who had been looking forward
22 to this event, sir. Your name is widely known
23 in Oshawa, particularly from the formula which
24 bears your name, and he asked me to express
25 his apologies that he was unable to come. A
26 quick call came to go to Detroit on some
27 urgent business and I am very pleased that I
28 have the honour instead, but in view of the
29 newspaper report, sir, with a little trepidation.
30 That is the end of the flowery statements from

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1 now on, sir.

2 MR. POLLOCK: We will try to
3 live up to the reputation, then.

4 MR. EDWARDS: The brief before
5 you contains, first of all, a brief history
6 of the Oshawa and District Labour Council.
7 This may not be germane to the discussion
8 so I will continue.

9 The next section of the brief
10 contains the purposes of our Labour Council
11 which is based on the constitution of the
12 Canadian Labour Congress.

13 We go on to the next page, which
14 contains the names of the officers of the
15 Labour Council and then we come to the
16 affiliates. There are some 26 or so labour
17 unions which are affiliated to the Oshawa and
18 District Labour Council and comprise about
19 26 thousand members.

20 MR. POLLOCK: It even has a
21 ladies auxiliary.

22 MR. EDWARDS: According to
23 the constitution of the Canadian Labour Congress,
24 this is a bona fide affiliation, yes.

25 MR. POLLOCK: It demonstrates
26 your courage, Mr. Edwards.

27 MR. EDWARDS: Thank you, Mr.
28 Pollock, I will try to follow your levity when
29 I get into the formal part of this. May I
30 read the brief, Mr. Pollock?



1 The Oshawa and District Labour
2 Council in presenting this brief, would remind
3 the Commissioner that we are in full support
4 of the submission of the Ontario Federation
5 of Labour in respect to the Commission's
6 inquiry into labour disputes.

7 May we also remind the Commissioner
8 that the employers are still crying "blue
9 ruin" as far as organized labour is concerned
10 but on the other hand never in the history of
11 industry have they made so much progress. This
12 progress has taken place in the form of
13 expanded facilities and a more secure economic
14 position. Yet they would lead you to believe
15 organized labour has become so powerful, it is
16 on the verge of upsetting the balance between
17 labour and management.

18 This is not something new.
19 Oshawa which has been described as the
20 cradle of unionism in Ontario, is still hearing
21 echos of yesteryear. The voices today are
22 still emphasizing the remarks of the late
23 Premier Mitchell Hepburn when in 1937 he called
24 the C.I.O. Leaders foreign communist-tinged
25 agitators, and he described their attempt
26 to obtain union recognition as a plot to create
27 chaos. "The issue is whether or not agitators
28 are to be allowed into Ontario to defy our laws.
29 This is part of a Communist plot to smash our
30 economy and we will not tolerate it."



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1 The economy of Ontario has not
2 been smashed. In reality the opposite has
3 been true. The economy has flourished as the
4 Trade Union Movement grew. This growth has
5 not been easy. There have been many struggles
6 through the process of free collective bargaining
7 and we emphasize that this process must be
8 continued. After the due process of
9 collective bargaining, the right to strike
10 must be maintained and if there are any
11 changes this right should be enlarged upon.

12 There is a little ambiguity
13 here, Mr. Commissioner. What we mean is if
14 there are any changes at all, it must foster
15 the concept of collective bargaining.

16 We support some aspects of the
17 Freedman Report in this regard. Where there
18 are technological changes through automation
19 or other improved methods of production which
20 will mean the dislocation or changes in manpower
21 requirements then the union must have the
22 right to negotiate during the life of a
23 collective bargaining agreement and eventually
24 strike if a successful solution cannot be
25 reached between the parties.

26 The right to strike at the expiration
27 date of a collective bargaining agreement is
28 a necessary change in labour relations.

29 The present form of conciliation
30 procedures which states a union can lawfully



1 strike seven days after the board's report
2 has been handed down is archiac and frustrating
3 to the union involved.

4 If both parties realized at the start
5 of negotiations the time limits they were
6 working to, we are confident there would be
7 less strikes and a greater effort to find
8 a solution. Also under the present method
9 the employer has the advantage of short-
10 changing the workers because of the agreement
11 extending past the expiration date and no
12 retroactive provisions can be negotiated.

13 THE COMMISSIONER: But they
14 do have retroactive provisions at times,
15 don't they?

16 MR. EDWARDS: If I may enlarge,
17 sir, what we mean by this paragraph is that
18 you've reached the end of elective negotiations
19 and it is three or four or five months and
20 there may have been a strike and there may
21 not have been a strike, and we are left with
22 the one issue at stake. That is the
23 retroactivity, and invariably, rather than
24 continue the strike, which any reasonable
25 man is reluctant to do in the first place,
26 you will settle retroactive pay without the
27 same militancy with which you entered into
28 the strike. We are suggesting that if we
29 had a termination date of permitting a strike
30 at the end of a contract, then this kind of



1 imbalance would not exist.

2 THE COMMISSIONER: Perhaps I
3 should tell you that the language of the order
4 in council appointing this Commission is
5 more or less restrictive, and we certainly
6 are not going into an examination of the
7 Labour Act of Ontario in its organizational
8 provisions. What we are primarily concerned
9 with are the results that follow the end
10 of negotiations.

11 MR. EDWARDS: Then we have
12 been misinformed, sir.

13 THE COMMISSIONER: It is not
14 intended to look through that Act and see
15 what its weaknesses are. You see the
16 emphasis is on the strike and the picket line
17 and those phenomena which follow the failure
18 of collective bargaining.

19 MR. EDWARDS: We understood
20 that the Commission hearing was called to
21 examine all aspects of labour relations.

22 THE COMMISSIONER: That is not
23 quite so, and certainly most of those who
24 have come before the Commission have realized
25 that fact. I think there is one thing that
26 seems to be the result of the operations that
27 they all have necessary delays and things
28 are dragged out when they shouldn't be dragged
29 out. I don't think there is much doubt about
30 that. But at the same time, I don't think that

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1 the blame is all on one side because labour
2 frequently accepts postponements or enjoins
3 postponements. They all accumulate the delay
4 that is complained about. How often do you
5 get or are you refused retroactivity?

6 MR. EDWARDS: Frequently, sir,
7 frequently.

8 MR. POLLOCK: Well, you can't
9 answer that question by frequently. How often
10 do you get it or how often are you refused? If
11 it is frequently, then you get both frequently.

12 THE COMMISSIONER: I take it
13 you meant to answer the latter part.

14 MR. EDWARDS: What I meant
15 was that we are frequently deprived of a
16 fair retroactive state. I think the next few
17 paragraphs in our brief will outline our
18 position.

19 THE COMMISSIONER: Yes, quite,
20 but I wanted you to know what the position is.

21 MR. EDWARDS: Well, it is
22 unfortunate this misunderstanding arose. I
23 understood that you were emphasizing the
24 question of injunctions and strikes and lockouts
25 and so on, but that you were empowered to
26 look into the whole picture.

27 MR. POLLOCK: I think that
28 the only reason that one can probably say
29 that is to look at one part of the Labour
30 Relations Act because some of the matters that

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1 were focused upon may be anchored a little bit
2 into the Labour Relations Act. We are not,
3 in your statement, looking into all of labour
4 relations law in Ontario. That is not the
5 purpose. The focus, of course, within the
6 terms of reference, are labour disputes and
7 injunctions.

8 MR. EDWARDS: Well, Mr.
9 Pollock, I am disappointed in several respects,
10 if I may take up this levity business. I am
11 also a member of the Anglican Council for
12 Social Services and our industrial relations
13 committee recommended in a resolution at
14 the last diocesan meeting that this investigation
15 be made and we were convinced, of course, that
16 it was our resolution which brought this about.

17 MR. POLLOCK: Well, I am sorry
18 that the Anglicans haven't succeeding in
19 infiltrating the government to that effect.

20 MR. EDWARDS: We were kind
21 of hoping to get the family compact back again.
22 If I may continue, sir:
23 are
24 We, in Oshawa/re aware of the
25 frightful use of injunctions in labour disputes.
26 We have witnessed this legal remedy invoked
27 by employers to break strikes and unions.

28 The workers in most cases have
29 established rights through welfare schemes,
30 pensions, supplementary unemployment benefits,
seniority rights and other benefits and they

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1 must not be lost by strike breakers taking
2 their jobs.

3 In Oshawa there have been many
4 significant struggles take place in the ranks
5 of labour and management. The struggle that
6 prompted this Commission to be established was
7 the dispute between the Toronto Newspaper Guild's
8 Oshawa Unit and the Oshawa Times. The strike
9 caught the imagination and support of all
10 trade unions in the area and particularly the
11 U.A.W. because the managements cool, callous
12 and premediated objective to smash that union.

13 When the management recognized
14 the support that was forthcoming from the
15 other trade unionists in the area, they
16 resorted to the obvious method of defeating a
17 union, the injunction.

18 The terms of a contract and the
19 negotiating of a settlement that both parties
20 could live with, became secondary, the
21 elimination of the union as a bargaining agent
22 became the central issue and courts were being
23 used to further that end.

24 The law gives the worker the
25 right to strike only after all his efforts to
26 negotiate a collective bargaining agreement has
27 failed and they have exhausted every avenue
28 possible to achieve a settlement. The right
29 to strike is recognized as a most serious
30 step and must not be negated by the use of

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1 injunctions to defeat its purpose. The basic
2 purpose of an injunction is to keep the
3 parties in an equal position until the legality
4 of charges are substantiated and the court
5 has the opportunity to make its decision.
6 The experience in the Oshawa area in regard
7 to injunctions reflect in the dispute becoming
8 one-sided in favour of the employer and
9 destroys completely the objective of the
10 injunction in keeping things as they are.

11 Injunctions have no place in
12 labour disputes in Ontario and we must emphasize
13 in the strongest voice possible our opposition
14 to injunctions and urge upon you, Mr.
15 Commissioner, to recommend to the Government
16 the complete removal of injunctions in labour
17 disputes.

18 Respectfully submitted by The
19 Oshawa and District Labour Council.

20 THE COMMISSIONER: Have you
21 been in this room all morning?

22 MR. EDWARDS: No, sir, I was
23 in the room part of the time.

24 THE COMMISSIONER: Because
25 you would have heard some of the reasons
26 advanced why the injunction should be retained.
27 They are very different points of view.

28 MR. POLLOCK: I meant to ask
29 you a question, on the third page of the main
30 part of your submission, the third paragraph

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1 on that page, relating to jobs that are lost
2 to strike breakers and taking other people's
3 jobs. Why is it that strike breakers or
4 other people are attracted to go and work in
5 that plant when others are on strike?

6 MR. SUTTON: The only answer
7 to that, in my opinion, is the fact that it
8 is human nature. Most people don't believe
9 that they are their brother's keeper. The
10 fact is that in unionism this is what we do
11 believe.

12 MR. POLLOCK: And I suppose
13 if you could persuade people to hold the view
14 that you hold as far as unionism is concerned,
15 you would have everybody in the province in
16 a union?

17 MR. SUTTON: That is correct.

18 MR. POLLOCK: And the fact you
19 haven't got everybody in the province in the
20 union is evidence of the difficulty, or the
21 failure, I suppose, to persuade those people
22 that way.

23 MR. SUTTON: Up to this date.

24 MR. POLLOCK: What about those
25 people who are looking and want to get another
26 job? Ought they to have their freedoms so
27 inhibited that if they aren't a member today
28 of a plant that happens to pay more than they
29 are now earning, that they will never, ever get
30 to that position?



1 MR. SUTTON: Well, we suggest
2 that what happens is that the companies are
3 using the injunctions in order to provide
4 access for strike breakers into the plant.

5 MR. POLLOCK: No. The injunction
6 doesn't instill in these people a desire to
7 work there. The desire must come before
8 any injunction. They want to go and work
9 in that plant and they want to go and get
10 the money and, as you say, it is human nature.
11 They want to earn this wage that has, for
12 some reason, been declined by others. It is
13 a question of choice.

14 MR. SUTTON: Well, then, I
15 don't understand the thinking of these scabs
16 who want to cross picket lines.

17 MR. POLLOCK: And you say
18 if you can't understand them then they ought
19 to keep them out?

20 MR. SUTTON: We suggest that
21 they remain out and let us argue the thing
22 out with management in order to arrive at
23 a settlement which, eventually, they will, at
24 the bargaining table, and not by crossing
25 the picket lines.

26 THE COMMISSIONER: Then you
27 don't recognize any dissent. I thought that
28 was vital to what you call democratic
29 government.

30 MR. SUTTON: We cannot condone

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1 strike breaking or crossing the picket line,
2 that is a legally constituted picket line.

3 MR. POLLOCK: Well, if you
4 consider that between 25 and I think the highest
5 is 30 per cent of the people, of the non-
6 agricultural work force who are organized, I
7 think it is 22 per cent, or something like that,
8 then you are in the minority. Your view is
9 in the minority, that these other people ought
10 to be kept out of the plant. The other 78
11 per cent feel that they ought to be able to
12 improve themselves if they can get this job.
13 Now some of them may be working in union
14 plants and they have only been able to achieve
15 a salary of \$1.50 an hour and in somebody
16 else's plant, for some other reason, they
17 are making more money. They may not be
18 solidly committed as people who want money
19 aren't always solidly committed to principle.

20 MR. EDWARDS: But, Mr.
21 Pollock, it is a very penetrating question
22 that you ask, but I want to clear up a
23 possible - I want to make a clarification.
24 We are concerned about these people. I want
25 to establish that right away, those who are
26 not members of unions. In other words,
27 because they have not decided to voluntarily
28 go out and organize themselves, we don't
29 disregard them. We are also concerned about
30 those who are unable to form unions or, until

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1 recently the civil servants, for instance, who
2 have been unable to bargain collectively as
3 we have. We think this should be extended
4 to everybody and we think this concept should
5 be fostered by an educational process. We
6 are spending quite a bit of money, I understand,
7 in other countries ----

8 THE COMMISSIONER: But some
9 people want to change this country from a
10 monarchy into a republic. Would you stop
11 them from talking that way?

12 MR. EDWARDS: By no means.

13 THE COMMISSIONER: Then why
14 would you stop a man who wants to remain
15 free of a working organization?

16 MR. EDWARDS: As a member
17 of our society, our industrial society, sir,
18 he has a responsibility. He has a
19 responsibility to his fellow workers to go
20 along to a union meeting and express his
21 opinions.

22 THE COMMISSIONER: You create
23 that, that is all, but it doesn't exist in
24 the nature of things. We are all born
25 individually, not collectively. We have
26 a society, it is true.

27 MR. GRILLS: I don't believe
28 it is our intention, sir, to stop anybody
29 from bettering themselves to better employment.
30 But we do take a very dim view of someone who,

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1 the only time they come to get a job is when
2 other people are trying to better their
3 employment. We have nothing against these
4 people. Some do and it is our experience
5 that there have been professional strike
6 breakers and although we cannot understand
7 their reasoning but if the strike has come
8 to a successful conclusion, these people would
9 be out of a job anyway, so I don't know what
10 their purpose is.

11 MR. POLLOCK: Well if the only
12 problem the labour movement faced today was
13 the professional strike breakers or these
14 people who are imported to this job, you would
15 have a very small problem. It is the bulk
16 of these people who want to go and work there
17 and to answer your question, why do they
18 go there and take this employment at your
19 plant while you are on strike, the answer
20 is that while you are working, there isn't
21 any vacancy.

22 MR. EDWARDS: Can I throw
23 it back to you, Mr. Pollock? I wasn't
24 involved myself, except on a couple of
25 occasions I was down at the Royal York strike.
26 I remember reading a very moving letter in
27 the Star, a lady who had worked there for 22
28 years. She was a room maid and she said
29 that she was happy in her job and she got
30 a great deal of satisfaction from performing

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1 little duties in her work as a chambermaid. She
2 had a loyalty to her employer - the Royal
3 York Hotel - and she said, "after 22 years, in
4 the midst of negotiation, this great organization
5 saw fit to go behind my back and hire someone
6 to take my place." Now, in the light of
7 this lady's feelings, must we not make it
8 possible for her to retain her job even though
9 the dispute takes place and even though the
10 company might get an injunction which would
11 possibly break the organization she works for?

12 MR. POLLOCK: Well, she has,
13 in that case, an emotional argument that
14 probably has great weight in that this business
15 of 25 year employees, it is the biggest concern
16 to some of those people, and I agree with that
17 for the purposes of this discussion. But I
18 don't see how that helps you in dealing with
19 those people who want to go and work on
20 conditions that you aren't prepared to offer
21 or prepared to accept, and they will do it
22 without the injunction and, in some cases,
23 there are people who are willing to go to
24 work in a plant where there isn't any injunction
25 and that the only time the injunction is
26 granted is when these people are physically
27 stopped from going through.

28 MR. EDWARDS: But my question
29 is, Mr. Pollock, are we to allow this freedom ----

30 THE COMMISSIONER: Can you

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1 generalize into a broad principle on the
2 basis of 2 or 3 individual cases of hardship?
3 There is no doubt but what you say is something
4 that appeals to any civilized person's conscience,
5 or whatever you may call it. It is a
6 bitter thing to feel that any individual
7 has undergone, but there are other factors
8 that you haven't taken into account. She
9 left the service. Why? Well, there was
10 a dispute and there is one desire against
11 another desire. So you have to appreciate
12 the whole situation before you can arrive
13 at any rule that could be made general. And
14 would you mind telling us just exactly what
15 you think the rights of a picket line are -
16 what a picket line is and the rights that
17 they exercise?

18 MR. SUTTON: Well, I would
19 like, as you said, sir, on the basis of these
20 questions of delving into industrial disputes,
21 and I want to by-pass your question for a
22 minute and I won't forget it. But on the use
23 of injunctions which we say are just the
24 company's tool in order to break strikes and
25 there is no doubt in any union members' minds
26 that this is exactly what the purpose of the
27 injunction is, regardless of how it is enacted
28 into law.

29 THE COMMISSIONER: Whose
30 purpose? The court's purpose?



1 MR. SUTTON: The purpose of
2 the legislation is to assist ----

3 THE COMMISSIONER: You may make
4 that statement, but let me tell you this, that
5 it is nonsense.

6 MR. SUTTON: I understand
7 your thinking on the matter, Mr. Commissioner,
8 and also of management's thinking at the
9 same time, because the injunctions can be
10 issued on the ex parte without any say or
11 interference by the union or any redress.
12 An ex parte injunction can be issued and
13 the interim injunction can be issued and
14 might I point out on the question of the
15 Oshawa Guild Workers strike, that any
16 provocation or incitement of any violence
17 was not by any union member, but they had
18 sheriff people down there, the bailiff
19 and there is a one-armed chap down here with
20 a hook on his arm, and he did everything but
21 hit our workers over the head, attempting
22 to incite violence. And there was not one
23 incidence of violence in the Oshawa Guild
24 Workers strike.

25 THE COMMISSIONER: Well, I
26 happen to know what happened in Windsor in
27 1945.

28 MR. SUTTON: I can remember
29 that, also, I had 30 years at General Motors
30 and I recall that.



1 THE COMMISSIONER: So it is
2 all nonsense to talk about peace.

3 MR. SUTTON: There have been
4 incidents, sir, of violence, and I believe
5 it was the Ford strike in 45 in the ----

6 THE COMMISSIONER: Let me
7 ask you again: What do you think the right
8 of picketing is? Frankly, what do you
9 think it extends to?

10 MR. SUTTON: The picket is
11 to demonstrate the fact that they are on
12 strike and to materially assist in convincing
13 management to get back to the bargaining
14 table.

15 THE COMMISSIONER: How, in
16 what manner?

17 MR. SUTTON: By showing
18 their solidarity on the picket line.

19 MR. POLLOCK: Solidarity
20 or solidity?

21 MR. SUTTON: Solidarity.

22 THE COMMISSIONER: Under the
23 exercise of solidarity, they are all on
24 strike, that is all the members of the union.
25 What has that to do with the entrance to the
26 plant, of a strike breaker, say, if that is
27 all their purpose is, by their presence to
28 indicate their solidarity, which I agree is
29 a vital thing.

30 MR. SUTTON: By allowing the



1 strike breakers into the plant you are then
2 providing the companies with an avenue to
3 begin a double standard again.

4 MR. POLLOCK: Then you want
5 to stop this one. Now, just a moment, please.
6 You said you wanted to demonstrate you are
7 out on strike. You say that you want to
8 have solidarity. Now the question is: If
9 these people, in the face of a demonstration
10 that they know a strike exists, will want to
11 cross the picket line and if you talk to
12 them and they say "Don't talk to me. I don't
13 care about your principles. I want to go
14 to work", then the only way you are going
15 to keep them out of that plant is to stop
16 them from going in and that is physically
17 stopping them. Is that what you are suggesting?

18 MR. SUTTON: We are suggesting
19 that they close ranks.

20 MR. POLLOCK: Is that yes, or
21 no?

22 MR. SUTTON: I suggest that
23 we are closing ranks, that we are definitely
24 opposed to strike breaking and strike breakers
25 entering a plant so that we would stop them.

26 MR. POLLOCK: That is all I
27 asked and that is a fair position and I
28 understand what you say. I wish you would
29 say what you are saying and make it a lot
30 easier.



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1 THE COMMISSIONER: What you
2 say is that you are entitled to prevent them
3 by force, whether that is active or passive.
4 All I can say is that is not your legal
5 right, that is all. It is on the basis
6 of that that the court acts and it can't
7 act unless it has that basis.

8 MR. EDWARDS: May I respond
9 to that, Mr. Commissioner, by saying this.
10 My own personal view, and we have never taken
11 a vote or discussed it in this way at the
12 Labour Council, so it is a personal view
13 and it is this. That the worker - and by
14 worker I mean the labourer - is at a
15 disadvantage in that if he is a reasonable
16 person and notwithstanding what was said
17 this morning, and most labour leaders are.

18 MR. POLLOCK: They agreed
19 with that.

20 MR. EDWARDS: Well, I didn't
21 get that from the little bit I heard this
22 morning. Most labour leaders are very
23 reasonable men. They are usually family
24 men and usually active in the community and
25 they are concerned with issues but at this
26 disadvantage. They have to take economic
27 action to force management back to the bargaining
28 table and get a settlement which they consider
29 satisfactory and yet it must be on a short
30 term basis because, we had a strike in my plant

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1 last year but I recognized that not only we,
2 are labour employees in that company, but some
3 of the people we are bargaining with are
4 employees and it is my difficult task of
5 somehow forcing them back to the bargaining
6 table and yet putting up such a fight that
7 the whole function will be ruined. I want
8 them to stop selling tires, I work at the
9 Dunlop plant, during the period of the strike,
10 but as soon as the strike is over, I want
11 everybody in this country to buy Dunlop
12 tires.

13 THE COMMISSIONER: Yes, of
14 course. Now, what you say is unassailable
15 but that hasn't always been observed because
16 there have been strikes in which they really
17 got satisfaction from the destruction of
18 the very source of your common interests.

19 MR. EDWARDS: Then, sir, I
20 can only tell you about my own experience
21 and it is very, very rare that this kind
22 of view prevails because we have got too much
23 at stake and our pension benefits and our
24 hospital plans and our retirement, we've got
25 too much at stake and we want this to get
26 back into business again.

27 THE COMMISSIONER: I would think
28 that is obvious.

29 MR. EDWARDS: And we are
30 concerned that employers who don't have the same

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1 attitude as the company I work for, take
2 advantage of the law as it now is to unfairly
3 use it to break an association and to deprive
4 people of their fair share of the wealth
5 of that company.

6 THE COMMISSIONER: That is
7 true, but you could take the reverse case.
8 You know there have been industries that have
9 been put into bankruptcy by the action of
10 the union.

11 MR. EDWARDS: Could you give
12 us an example of this?

13 THE COMMISSIONER: I think
14 possibly Mr. Pollock could. There is no doubt,
15 and I can't remember the names of two or three
16 cases that have been mentioned, but they
17 have been mentioned.

18 MR. EDWARDS: I don't know of
19 any, sir, but I know cases of the other - where
20 the injunction has been used to smash the
21 union.

22 MR. POLLOCK: Well, is it
23 the injunction or is it the strike breaker?
24 Now the injunction didn't create the strike
25 breaker. Now, if it is your position that
26 the injunction prohibits you from physically
27 blocking these people from going in and that
28 is the only method you have to keep the strike
29 breakers out, then you might have some merit
30 to your argument. Then your argument is a

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1 logical argument. But if you are saying that
2 the injunction is adding something else to
3 the struggle other than just preventing
4 violence and preventing blocking of access
5 and preventing physical obstruction, then
6 I think you have to demonstrate that by some
7 other argument

8 MR. SUTTON: I would suggest
9 is
10 that the fact/^{is}that most injunctions have
11 created violence, it hasn't prevented violence,
12 it has been the story over the last few years
13 that injunctions have created violence and
14 not prevented.

15 MR. POLLOCK: Is it the fact
16 that the injunction, by prohibiting people
17 from physically closing a plant has resulted
18 in people going through and working and the
19 plant operating? Which is the cause and
20 which is the effect? If the plant doesn't
21 operate, even with an injunction, you are
22 not losing anything.

23 MR. SUTTON: Then that is the
24 status quo with the company and the union and
25 the only way they are going to resolve the
26 union is to get back to the bargaining table
27 and settle it when it should have been settled
28 in the first instance.

29 THE COMMISSIONER: Well, the
30 only thing that can be said is that you are
 misconceiving your right, that is all. You have

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1 a right to try and persuade but you can't compel
2 anybody to listen to you if he doesn't want
3 to and you can't compel him by what you call
4 getting together - and I have forgotten the
5 expression - what you meant was a mass
6 obstacle. That is illegal and you might
7 as well accept it as being the present law
8 and that is the justification for an injunction.
9 And what you say is that you are entitled, in
10 that situation, to violating the law with
11 impunity. Now that is the fact and there
12 is no sense in trying to cover up by other
13 kinds of language.

14 MR. SUTTON: I am not trying
15 to cover it up, sir, on the basis that in
16 our opinion this is exactly why this Royal
17 Commission has been set up - because of the
18 injustice embodied in the present, archaic
19 injunction law.

20 MR. POLLOCK: It is not the
21 injunction law. Let me stop you there. What
22 you want, if I understand your position, is
23 that there ought to be permitted, and it
24 isn't now, it ought to be permitted by law
25 to physically bar access. Without looking
26 at the injunction, you can look at the criminal
27 law and any kind of law that is unrelated
28 to the injunction and you can't, in our
29 society, physically stop somebody from doing
30 something which they have a right to do. So the

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1 next step is that you are saying you want
2 enacted in law some provision that prohibits
3 people from going to work there.

4 MR. SUTTON: But you are
5 getting into an area now, which you say, Mr.
6 Justice Rand, is on the basis that he can't
7 enter into it because the simple solution
8 to this is that if it was provided for in
9 legislation then eliminate or speed up
10 conciliation services so that we can get
11 into the true collective bargaining which
12 is only done in the last 48 hours or 72 hours
13 which, according to the government legislation
14 as it now stands, is about five days after
15 the conciliation board report is handed down,
16 which could be two months or three months
17 or even six months or a year after an agreement
18 has been terminated.

19 MR. POLLOCK: We are obviously
20 not even on the same wave length.

21 MR. SUTTON: That is right.

22 MR. GRILLS: I would like
23 to say, in my own personal opinion, sir, my
24 opinion of a picket line is that if you have
25 mass pickets you discourage other people
26 from entering the plant and once you have
27 obtained an injunction to maybe four people,
28 then the people aren't so discouraged as
29 they might be with mass picketing. Now I
30 am not saying that they should stop them bodily

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1 and create harm to somebody, but I am saying
2 that the mass pickets, when they close ranks,
3 discourage people without touching the person.
4 But when you have it limited to four people,
5 then they may go in. But I think what we
6 want is, without the injunctions, we can
7 still have mass picketing and if anybody
8 does this and harms somebody else, you have
9 the criminal code to go back to and they
10 have used that in Oshawa in one place now.

11 THE COMMISSIONER: Well, let
12 me give you a case now and let me see what
13 you think of it. In one case - I think it
14 was in Hamilton - where there were three
15 furnaces of great value and they cost millions
16 of dollars. The strikers refused to allow
17 anybody to go into those to put them into
18 the condition in which they would be preserved
19 in the case of a continuing strike. They
20 refused to allow that property to be preserved.
21 And the application to the court for an injunction
22 was the only thing that enabled them to make
23 that preservation. Would you support that?

24 MR. GRILLS: I would agree
25 that they should allow these men to go in
26 and preserve that because it is only logical.

27 THE COMMISSIONER: Of course
28 it is and you have a vital interest in the
29 preservation of that equipment.

30 MR. GRILLS: Yes, and we couldn't

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1 agree more wholeheartedly.

2 THE COMMISSIONER: And yet
3 the Ford plant, back in 45 or maybe 46, it
4 was in the winter, although it was settled
5 before the winter. I think it was in the
6 subsequent dispute that they caused damage
7 amounting to \$200 thousand through the
8 bursting of pipes which carried water and
9 which they weren't allowed to keep free
10 of ice by maintaining heat. What would
11 you say to that?

12 MR. GRILLS: I would not
13 agree, sir. I think that people should
14 be allowed in to do that because we are
15 only defeating our own purpose.

16 THE COMMISSIONER: Well,
17 I think that is a common sense view. If
18 anybody wanted to destroy the very source
19 of his livelihood, there is something wrong
20 with his head. But those things have happened
21 and you know you can take an interest and
22 you can work up sufficient frenzy to injure
23 people by destroying their property.

24 MR. GRILLS: But I say they
25 have the criminal code to go by here.

26 THE COMMISSIONER: Yes, this
27 is true, they do. But I am talking about
28 it from the standpoint of the dictation of
29 something that we would like to call intelligence.
30 There is no intelligence behind a thing like

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1 that, even if it has very little use, except
2 against you. It is a value, a material
3 value. Why destroy it to spite somebody.
4 So long as we maintain the fact that we are
5 in a war and our interests are so fundamentally
6 opposed to each other than we've got to use and
7 resort to the weapons and means of war, we
8 are going to have these continued fights and
9 don't think that I am not appreciative of
10 the struggle that labour has had in the
11 last 200 years; that is quite true. But
12 like everybody else, it may go too far.
13 We are all susceptible to that. That you
14 should want to change law, yes, but how are
15 you going to bring it about? Not by a
16 deliberate violation in the form in which
17 the injunction is designed to effect because
18 you know the law is that an injunction will
19 not issue unless there is injury to person
20 or damage to property or there is a threat
21 of public inconvenience which is of an
22 essential accommodation or function.

23 MR. GRILLS: Well, I was
24 on strike in 1965 where I work at the Fittings
25 plant in Oshawa. We had no violence
26 whatsoever. All we did, we threatened
27 no one and we asked the foremen, because
28 they were in there doing work, we asked
29 them would they respect our picket lines
30 and through this, the Fittings management

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1 was able to obtain an injunction and not at
2 one time was there any violence whatever at
3 that plant.

4 MR. POLLOCK: Did you read
5 the affidavits in support of that application?

6 MR. GRILLS: Yes, I did and
7 I have them at home.

8 MR. POLLOCK: Would you send
9 them to us?

10 MR. GRILLS: I will send them
11 but all that is in the affidavit is not true.

12 THE COMMISSIONER: Well, why
13 didn't you challenge it?

14 MR. GRILLS: We challenged it.

15 THE COMMISSIONER: But it wasn't
16 challenged before the court.

17 MR. GRILLS: They had the
18 injunction and we came up and asked our lawyer
19 what we should do and they had it that we
20 threatened the foreman and we had only asked
21 him if they wouldn't respect it and the
22 foreman said we had threatened him and the
23 fellow workers that we work with and their
24 company men. But there was not one iota
25 of violence in that picket line.

26 THE COMMISSIONER: Well, I
27 don't think there would be any difficulty now
28 about that because I think it has been suggested
29 that doing away in ex parte of affidavit
30 evidence. They take individuals before the

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1 courts to tell their story and the union can
2 be notified and it can be there and see what
3 is going on. They may have to act quickly
4 on short notice but in emergencies you've
5 got to move quickly.

6 MR. GRILLS: I agree, in an
7 emergency.

8 THE COMMISSIONER: Well, how
9 do you tell if there is an emergency unless
10 you can bring people together quickly before
11 you?

12 MR. GRILLS: You very seldom
13 see an injunction. We have 720 members and
14 the injunction did us no harm because they
15 weren't running the plant. But where the
16 injunction does harm is in a small local union
17 that they get an injunction and then they
18 broke this union.

19 THE COMMISSIONER: Then why
20 do you have a picket line?

21 MR. GRILLS: To let people
22 know we are on strike and to prevent people
23 from going in.

24 THE COMMISSIONER: Well, why
25 did you close the plant?

26 MR. GRILLS: We couldn't reach
27 an agreement.

28 THE COMMISSIONER: No, but your
29 object is to close down the works, isn't it?

30 MR. GRILLS: Yes.

1 THE COMMISSIONER: If it is
2 closed at any time, and we assume that you
3 respect the law to let anybody go in who
4 has to go in and nobody has offered to do that,
5 then your picket line becomes a fifth wheel.

6 MR. GRILLS: But we never
7 know when there may be somebody going through
8 there to work.

9 THE COMMISSIONER: Well, you
10 had 700 men, do you think you could run
11 700 personnel with half a dozen?

12 MR. GRILLS: Well, this is
13 probably a point

14 THE COMMISSIONER: The
15 substance of it has ended. You stop the
16 real activities of the plant.

17 MR. POLLOCK: Mr. Grills, if
18 I could ask you this question. Mr. Sutton
19 has suggested that you ought to be able to
20 stop the people from going in in some circumstances
21 where people will cross after not being
22 persuaded.

23 MR. SUTTON: They are strike
24 breakers.

25 MR. POLLOCK: All right. If
26 that is in an affidavit and that is the fact,
27 do you think that you would have any success
28 by cross-examining on that and by bringing
29 other evidence? You can't refute the fact
30 that this type of activity has occurred. Now

1 what you want to do is try and justify it.
2 The way the law stands now, you can't justify
3 it. You can't physically stop people from
4 going in. If that is what you want to do
5 then that is the law that has to be changed.

6 MR. EDWARDS: But, Mr. Pollock,
7 in the circumstances surrounding a strike, as
8 Mr. Rand has said, the frustrations and
9 emotionalism that surrounds a strike where,
10 on one side you are mad at the employers because
11 they haven't seen their point of view, which
12 you think to be a reasonable one. On the
13 other, you have a vested interest in that
14 enterprise, whatever it might be. Now, going
15 back to this Oshawa Times strike ----

16 MR. POLLOCK: Let me stop
17 you for a minute. That also applies on the
18 other side of the table too. They think that
19 they are eminently reasonable and that you
20 are unreasonable and they realize that they
21 also need you to carry on their operation.

22 MR. EDWARDS: But the impression
23 is given on so many, many occasions that you
24 are dispensable.

25 MR. POLLOCK: Maybe they are
26 better actors than you are.

27 MR. EDWARDS: Maybe they are.
28 But here is an example at the Oshawa Times
29 strike and you will note that neither of the
30 three of us - he is at General Motors and he

Toronto, Ontario

1 is talking about steel and I am talking about
2 the rubber plant - and we are not saying
3 that we are at a disadvantage as far as this
4 is concerned, but we are emphasizing this
5 little unit when 32 people in a union and
6 each one the princely sum they
7 were getting was \$42 a week for running a
8 column in a big chain like the Thompson chain.
9 Now the emotionalism that surrounds where
10 you try to stop someone long enough to explain
11 to them that the law says why they shouldn't
12 go across. Now when that person insists
13 on going through, whether he is a visitor
14 or whether he is a company man, he insists on
15 going through, how do you take this into
16 account?

17 THE COMMISSIONER: How do you
18 do it? How do you generate loyalty in a
19 union? You've got to make the appeal attractive,
20 and that, I think, would be influenced by
21 external conduct. If he gets the impression
22 that this is an organization that has respect
23 for nothing, then he may be of the temperament
24 that doesn't want to associate with you. The
25 job of unionism and of labour in the broader
26 sense, is a problem for labour to settle. It
27 has got to establish its own solidarity.

28 MR. EDWARDS: Precisely, sir,
29 but look at the difficulties in front of us.
30 According to those people who are not on the

1 spot and those who are anti-labour anyway,
2 they understand that a thousand of us are
3 milling around that Oshawa Times building
4 calling for blood. And, of course, this
5 is preposterous. What happened was that
6 we had a meeting and we were full of high
7 spirits and we were certainly militant and
8 we wanted to show our determination to assist
9 these people. But that picket line of a
10 thousand or eleven hundred people contained
11 clergymen and laymen from several churches.

12 THE COMMISSIONER: Yes, it
13 became a social demonstration.

14 MR. EDWARDS: And the only
15 violence that took place that night was
16 a snowball thrown at the sheriff of the county.
17 That was the only violence that took place.

18 THE COMMISSIONER: Well,
19 those are unfortunate things.

20 MR. EDWARDS: Are you aware
21 that at the Oshawa Times strike there was
22 no violence whatsoever beyond the throwing
23 of a snowball?

24 MR. POLLOCK: Was that
25 after the injunction?

26 MR. SUTTON: After the
27 reading of the riot act.

28 MR. EDWARDS: He read it out
29 and after he had left ----

30 MR. POLLOCK: The injunction

1 had already been obtained.

2 MR. EDWARDS: Yes, but that
3 was the only violence, then.

4 MR. POLLOCK: But the question
5 of violence after an injunction has been
6 obtained, isn't an issue, really, whether
7 you are breaching an order that has been issued
8 or not, the violence aspect is relevant before
9 you get ----

10 MR. EDWARDS: Well, excuse
11 me for interrupting, Mr. Rand, but we have
12 a responsibility to get across to our people.
13 I am trying to describe how difficult this
14 is when we are pictured throughout the country
15 as having a thousand people screaming for
16 blood and ready to storm the doors and this
17 is preposterous.

18 MR. POLLOCK: Maybe some of
19 those people who are making \$40 a week that
20 you are supporting in that case, are the
21 same people who are rioting.

22 MR. EDWARDS: This is not
23 the case, but surely you are aware of the
24 view of what took place and how false it is.
25 You must have read letters in the paper about
26 the trade unions defying the law down there.
27 But there is certainly no violence and this
28 was the extent of it.

29 MR. POLLOCK: I see Mr. McGuire's
30 hand and wondered if he wanted to make some

1 comments.

2 MR. McGUIRE: Sir, I was asked
3 to come down with the Oshawa people and the
4 Guild itself doesn't have any position, but
5 I could answer any questions from a personal
6 point of view or any facts relating to the
7 Oshawa strike.

8 MR. POLLOCK: No, I thought
9 you were intimately involved in that strike.

10 MR. McGUIRE: Well, I was.
11 These gentlemen are talking about the Times
12 strike and you might want more facts.

13 MR. POLLOCK: I thought perhaps
14 you felt we were restricting the submissions
15 this morning and you had to speak to another
16 medium. If you have anything to add, certainly
17 feel free to do so.

18 MR. McGUIRE: No, it is just
19 that the Guild itself is not before you.

20 MR. POLLOCK: Well, you are
21 now, if you wish to be, sir.

22 THE COMMISSIONER: Well, if
23 any of you had been at this hearing all morning,
24 you would see the truth of the suggestions
25 are infinite points of view. I have repeated
26 this but I think it bears a further repetition.
27 The many-sidedness of truth. So, we are
28 talking from the points of view of our existence.
29 I can quite understand how you look upon that
30 work as associated with you personally. You have

1 a role to play and you may have given 20 or
2 30 years of your life to it and you don't
3 want to be ejected from it by the actions
4 of any other person. Well, that is true,
5 but you know, why be always accommodating
6 to our own individual desires when there are
7 other people who have other desires and the
8 difficulty of government is the reconciliation
9 of these conflicting desires and interests.
10 All we can say is that we are getting the
11 views of everybody to see if it is possible
12 to make recommendations that will ease the
13 conflict.

14 MR. POLLOCK: Have you any
15 idea what percentage of the non-agricultural
16 work force in Oshawa is organized?

17 MR. EDWARDS: It is a high
18 percentage and I would just hazard a guess
19 but it is extremely high.

20 MR. SUTTON: Perhaps 90 to 95
21 per cent.

22 MR. POLLOCK: So you wouldn't
23 have too much difficulty in Oshawa in that
24 type of union situation of strike breakers
25 from Oshawa?

26 MR. SUTTON: That is a fact
27 because we are into a real honey of a situation
28 in Oshawa. The Oshawa Engineering strike
29 which has been going on since September; the
30 company has not even attempted to get an

1 injunction.

2 THE COMMISSIONER: Well, you
3 may be interested to know that that is the
4 situation in Australia. It never occurs
5 to them to provide a picket line or provide
6 against a strike breaker.

7 MR. EDWARDS: But what a
8 different picture of labour relations in
9 Australia. I have a friend in North Queensland
10 and it is hopper and he is a stevedore. In
11 1961 they went on strike and I forget what
12 for, but they were on strike. Menzies was
13 the Prime Minister at the time, I believe
14 they called him "Cast Iron Menzies".

15 MR. POLLOCK: I don't know
16 him as "Cast Iron Menzies" but he is Robert
17 Menzies.

18 THE COMMISSIONER: We know
19 him as Sir Robert Menzies.

20 MR. EDWARDS: Well, they
21 put soldiers to load the ships and the fellows
22 who loaded the cranes to the dock went on
23 strike so they sent the soldiers to load
24 the cranes. There is no expiry date or
25 conciliation procedure.

26 THE COMMISSIONER: I was
27 speaking of the vast generality of labour
28 relations in Australia. They do not have,
29 as an element in their armament, either the
30 picket line or the strike breaker. Now it

1 is true that they have had in the past, serious
2 strikes against the coal mining in which a
3 labour government insisted upon their
4 acceptance of a fixed rate as a minimum but
5 served also as a maximum and also a longshoreman
6 or the seamen, who are almost constitutionally
7 reconcilable to any form of regulation.

8 MR. EDWARDS: Well, I am
9 going to put this point forward, sir. That
10 the employers in Australia would like to have
11 a safe situation where they can tie down an
12 agreement for three years.

13 THE COMMISSIONER: But they
14 have a system by which the minimum and we
15 are speaking now of wages, the minimum wages
16 are fixed by a tribunal, not even in the
17 form of arbitration but by a tribunal. They
18 take them from both labour, management and
19 government but it is a rather extraordinary
20 arrangement. They are ----

21 MR. POLLOCK: They are
22 permanently employed.

23 THE COMMISSIONER: Yes, until
24 they are a certain age and in many cases
25 where they do have arbitration you will find
26 management will be choosing the man who came
27 from labour and the labourer will be choosing
28 the man who came from management. So they
29 have achieved a standing there which is
30 respected. On the other hand, you remember they

1 fixed his minimum rates but above that, you
2 are open then to what we call voluntary
3 bargaining or a free bargain, and that is
4 why all the strikes are prohibited. You do
5 have strikes which, although infrequent, are
6 not of any serious length.

7 MR. EDWARDS: Have you any
8 theory as to how this atmosphere prevails?

9 MR. POLLOCK: You will have
10 to wait to see the report.

11 MR. EDWARDS: Well, I just
12 wanted it briefly because I have, you see.

13 THE COMMISSIONER: Well, in
14 the first place, the minimum rates are of
15 such a nature as to give a sense of security.
16 And they are not left to the blasts of
17 misfortune.

18 MR. EDWARDS: Well, isn't
19 this precisely it?

20 THE COMMISSIONER: Yes, but
21 you wouldn't be satisfied with them in this
22 country.

23 MR. EDWARDS: But isn't it
24 that Australia was founded on a desire for
25 cooperation, whereas we have been taught here
26 that rugged individualism is the thing?

27 THE COMMISSIONER: I think there
28 may be something to that, yes, I think that
29 is so. They have been thrown into a sense
30 of common interests to a degree that has given

1 solidarity, but the same duty rests on you
2 to create your solidarity of workmen and you
3 do that by respecting some standards of
4 conduct and persuading public opinion that
5 you are essentially reasonable.

6 MR. EDWARDS: Well, I think
7 this was done at the Oshawa Times because
8 we had the support of the community.

9 MR. POLLOCK: That is right
10 and the strike is over. And they lost it
11 in Peterborough because they didn't have the
12 support.

13 MR. EDWARDS: No, sir, on the
14 contrary. They lost it in Peterborough
15 because they would not permit themselves to
16 take the extremes that you are afraid would
17 happen. I was sent down there by the Labour
18 Council to give them some advice as to what
19 we had done and they refused assistance from
20 us and they could have had assistance from
21 Sudbury. They could have had thousands
22 of picketers on that picket line and they
23 refused it because they felt that this was
24 against the law. They wanted to demonstrate
25 and what did they get for their pains? They
26 got a term of imprisonment. And the people
27 who provoked them, the two men who were running
28 the place who were taking pictures and
29 instigating as much violence and frustration
30 as possible, got off scott free with a little

1 warning from the courts.

2 THE COMMISSIONER: Well, don't
3 make the mistake of assuming there is any
4 view of obstinacy or unreasonableness as confined
5 to one side in this issue. I quite agree that
6 you have it on both sides in some cases and
7 if you could weigh them, I don't think there
8 would be much difference in the weights. But
9 you have this, that labour has held where
10 it is and it has done tremendous work in
11 the establishment of standards of living,
12 over 200 years of action against almost
13 insuperable difficulties, that is true. I
14 think there is no doubt that that has to go
15 on, but the problem is under what conditions?

16 MR. EDWARDS: I can only ask
17 that the Commission do what it can to
18 reestablish in the minds of the dedicated
19 people from the labour movement - and I am
20 speaking of people like ourselves who work
21 in plants, who work shif-work and have nothing
22 to gain except a consent of reestablishment -
23 that this Commission recommend to the government
24 that they withdraw this inequity, this
25 injunction issue. It is taking away from
26 orderly people the respect for the law which
27 is normally there. There are people on that
28 picket line with me, sir, when normally, the
29 most sinful thing they have ever done is to
30 buy an Irish Sweepstake ticket. They were

Toronto, Ontario

1 there in defiance of a court order which said
2 if you go on that picket line in excess of
3 more than four, you face life imprisonment.
4 And they were certainly not reprobates, or
5 drunken people, they were good solid citizens
6 who support their community and their local
7 unions and the union movement and they were
8 there in defiance of a court order which they
9 felt was unfair and unless this respect is
10 replaced, I hate to think of what might happen
11 in the future.

12 THE COMMISSIONER: Well,
13 gentlemen, I am very much obliged to you
14 for giving us the benefit of your views.

15 MR. SUTTON: I would just like
16 to say, Mr. Rand, that you have been, yourself,
17 materially, assisting the growth of the union
18 as it now stands today. Number one by the
19 Rand Formula, and I would like to suggest
20 that you continue on in the good work and that
21 is clear up an unfair factory situation.

22 MR. POLLOCK: Thank you,
23 gentlemen.

24 The Commission is adjourned.

25 ---Adjournment.
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BINDING SECT. OCT 20 1967

